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3 DISTRICT REGULATIONS

3-A SCHEDULE OF DISTRICT REGULATIONS

(4/21/92) (7/20/93)

3-A-1 Agricultural-Open Space-Conservation District - AOC

(6/13/89) Intent: This district includes portions of the County that are located west of the Shenandoah
(7/15/97) River and that consist primarily of various open lands such as farms, fields, forests, parks, lakes and flood plains. The district is intended for agricultural, forestal, and low activity recreational and service uses that will facilitate the conservation and preservation of agricultural, forestal and open space lands; the protection of water and clean air sheds; the conservation of water and other natural and ecological resources; the reduction of soil erosion and flood and fire hazards; and the enhancement of the aesthetic value of the district as a whole.

3-A-1-a Permitted Uses and Structures

(9/18/90)

1. Principal Uses and Structures

(7/15/97)

(12/15/09)

(7/21/15)

- a. Agriculture
- b. Forestry
- c. Horticulture
- d. Open Space
- e. Single-family Detached Dwellings (see Section 3-D)
- f. Wineries, Farm
- g. Breweries, Farm

(11/20/01)

(10/19/04)

(4/18/06)

(8/19/08)

(11/18/08)

(11/16/10)

(10/18/11)

2. Accessory Uses and Structures

- Uses and structures that are customarily accessory and clearly incidental and subordinate to permitted uses and structure, including:
- a. Home Occupations
 - b. Tenant Houses on premises of at least 20 acres, with not more than one such tenant house for each 80 acres, and further provided that any such tenant houses constructed subsequent to October 17, 1980, shall be in conformance with the provisions of Section 3-D-2
 - c. One dwelling of less than 600 square feet heated area on properties of six acres or more. (see Section 3-C-2-h)
 - d. Wind Turbine, Small (not more than two structures 100 feet in height or less for generating electrical energy primarily for on-site usage)
 - e. Temporary Family Health Care

(5/17/94)

(10/18/94)

(2/18/97)

(3/16/99)

(10/17/00)

(6/19/01)

(8/21/01)

(11/20/01)

(6/18/02)

(6/15/04)

(5/15/07)

(8/19/08)

(11/18/08)

(12/16/08)

3. Special Uses and Structures

- a. Special Trade Contractors as defined by the North American Industry Classification System #235
- b. Campgrounds
- c. Summer Camps
- d. Cemeteries
- e. Churches and other places of religious assembly (with a maximum seating capacity in the main assembly area of 300 people)
- f. Clubs (private)
- g. Community Services
- h. Country Inns
- i. Day Care Centers (allowed only on parcels fronting on the business routes of Primary Highways as designated by the Virginia Department of Transportation)

- (12/15/09) j. Extraction of Natural Resources – Limited
- (1/20/09) (3/16/10) k. Historic Structure Museums
- (8/17/10) (11/16/10) l. Livestock Auction Markets
- (2/15/11) m. Processing of Agricultural Products not totally produced in Clarke County (excluding wineries, breweries, cideries, and distilleries)
- (10/18/11) n. Public Assemblies, Minor Commercial
- (10/21/14) o. Public Utility Uses and Structures
- (07/21/15) p. Sanitary Landfills
- q. Retail and Service Businesses
- r. Small Scale Processing of Fruit and Vegetables
- s. Solar Power Plant, Large Photovoltaic
- t. Veterinary Services, Animal Hospitals, Breeding Kennels of more than 15 canine animals, Animal Shelter/Governmental
- u. Wind Turbine, Small (three or more structures 100 feet in height or less for generating electrical energy primarily for on-site usage)
- v. Wind Turbine, Small (structures greater than 100 feet in height or less for generating electrical energy primarily for on-site usage)

3-A-1-b

(6/13/89)
 (6/13/89)
 (1/16/90)
 (2/20/90)
 (3/20/90)
 (3/20/90)
 (8/20/91)
 (3/24/92)
 (7/20/93)
 (4/18/95)
 (6/18/96)
 (3/20/01)
 (8/19/03)

Lot Requirements

1. For Single Family Detached Dwellings:
 - a. The maximum lot size is four acres. The maximum average lot size is three acres. The minimum lot size is two acres; provided, however, the minimum lot size is one acre for lots created from the subdivision of parcels existing on 20 March 2001 that contain less than four acres. The minimum lot width is 150 feet. The calculation of the maximum average lot size in a subdivision shall not include parcels with a maximum average lot size exception or a single residual parcel remaining from the subdivision of lots meeting the maximum average lot size requirements. A lot or lots may qualify for a maximum average lot size exception by meeting one of the following four criteria:
 - (1) A new dwelling unit is to be located on a lot of record existing as of October 17, 1980, or;
 - (2) dwellings in existence and taxed as such or with a building permit issued before October 17, 1980, may be located on a lot larger than allowed in section 3-A-1-b. Such lots may be created so long as their size and location does not create low Quality Land Characteristics on any other parcel(s) created as a result of the division, or if the parcels created have zero dwelling unit rights remaining (excluding lot(s) for residential dwelling units that do not exceed the AOC Maximum Lot Area). This exception shall not be applied more than once per parcel existing on March 20, 2001 containing one or more such pre-1980 dwellings, or;
 - (3) the entire tract of land being divided, including, without limitation, any residual parcel(s) irrespective of area, has been placed under an easement granted to the Clarke County Conservation Easement Authority, the Virginia Board of Historic Resources, the Virginia Outdoor Foundation, and/or any other entity authorized to hold an open-space easement pursuant to the Virginia Open-Space Land Act (§10.21-1700, Code of Virginia) and approved by the Clarke County Board of Supervisors, and that all the parcels of land in the division are located in a manner consistent with the physiographic and/or historic characteristics of the property. As to requests for a maximum lot size exception based upon the land having been placed in an easement held or co-held by the Clarke County Conservation Easement Authority (recorded after November 19, 2013), said

(11/19/13)

easement must have included the termination of at least one (1) dwelling unit right in order for the property to qualify for a maximum lot size exception under this paragraph, or;

- (4) it is determined by the Commission, prior to subdivision approval, that the parent tract is of sufficiently low quality to justify using more than the maximum lot size allowed in section 3-A-1-b-(1)-(b) of low quality land for a proposed lot.

b. Low Quality Land Characteristics

The following are considered characteristics of low quality land that would permit maximum lot sizes for dwelling purposes in excess of the maximum lot size allowed by this section:

- (1) Physical features or small size or irregular shape of potential residual parcel such that efficient use of farm machinery would not be possible or that said land would be left to no useful purpose;
- (2) Combination of physical features and setting such that the maximum lot size allowed in this section for a lot proposed in a Minor Subdivision is too small to accommodate a dwelling, drainfield, and well so as to meet the minimal applicable health standards and provided that no lot may be created or increased in area so as to exceed a maximum area of four acres (An application for a Maximum Lot Size Exception, submitted under this section, shall be accompanied by a written statement prepared by a Virginia Health Department environmental specialist or a professional soil scientist [as defined in the County Septic Ordinance] stating why the proposed lot could not accommodate a dwelling, drainfield, and well meeting Virginia and Clarke County health standards within the maximum lot size allowed in this section. Lots proposed in a Major Subdivision are not eligible for a Maximum Lot Size Exception under this section); or
- (3) Land that is part of a parcel where such land has been determined by the Zoning Administrator to be not important farmland.

c. Important Farmland Determination

- (1) For the purpose of granting maximum lot size exceptions under this section, the dominant decision-making tool shall be the Clarke County Land Evaluation and Site Assessment (LESA) System, edition dated March 24, 1992, which is maintained for public use, inspection and information in the Clarke County Administrative Offices in Berryville, Virginia, and is hereby incorporated into and made a part of this Ordinance as if fully set out herein. The Zoning Administrator shall use the aforementioned LESA System to evaluate a maximum lot size exception. A report on the result shall be forwarded to the Commission. The applicable fee must be paid to the Treasurer of Clarke County.

- (2) The Commission shall designate as Important Farmland any lands with the following characteristics:

<u>Parent Parcel Size</u>	<u>LESA Rating</u>
Under 40 Acres	72% or More
40-129.99 Acres	68% or More
130 Acres or More	64% or More

- (3) In instances where the LESA score of a parcel is within four points above or below the minimum LESA rating that qualifies a parcel as Important Farmland, the Commission may grant or deny a maximum lot size exception, depending on the evidence presented indicating whether the subject land is important farmland. In these instances, the Commission may consider:
 - a. The extent that the proposed lot exceeds the maximum lot size allowed in this section;
 - b. Whether the LESA System accurately reflects the suitability of the subject

parcel for continuing agricultural use; and

- c. Factors reasonably related to agricultural suitability of the subject parcel that are not appropriately addressed by the LESA System, such as physical features.

- (4) In instances where the parcel being subdivided is 20 acres or larger and the LESA score of a parcel is within four points above or below the minimum LESA rating that qualifies a parcel as Important Farmland, and the Commission grants a maximum lot size exception, the area of the proposed parcel shall not exceed four acres. If the LESA score is between five and twelve points below the minimum LESA rating, the area of the proposed parcel shall not exceed six acres. In instances where the LESA score of a parcel is twelve or more points below the minimum LESA rating, or the parcel being subdivided is less than 20 acres, the area of the proposed parcel shall not exceed the acreage determined by the Commission. In any instance, the Commission may set a maximum area less than specified above.
- (5) Any party aggrieved by such decision may appeal any decision or designation made under the provisions of this Section to the Board of Supervisors.

2. For Other Permitted Uses, except as otherwise specified in Section 3-C, Supplementary Regulations:

- a. Minimum Area: 2 acres
b. Minimum Width: 200 feet

3-A-1-c Minimum Setback Requirements

(12/19/89)		Parcels with less than 1 acre	Parcels with at least 1 but less than 4 acres	Parcels with at least 4, but less than 20 acres	Parcels with 20 acres and greater
(10/16/90)					
(11/16/93)					
(3/18/97)	From the edge of a private access easement	25 feet	25 feet	50 feet	75 feet
(12/21/99)					
(1/16/01)	From the centerline of a secondary highway	50 feet	50 feet	75 feet	100 feet
(12/17/02)	(if state designated scenic highway, add 50 feet on parcels of 1 acre and greater)				
(11/16/04)					
(10/18/11)					
	From the edge of a primary highway right of way				
	-with less than 5000 trips per day	25 feet	75 feet	100 feet	125 feet
	-with 5000 or more trips per day	50 feet	75 feet	100 feet	125 feet
	From all property lines (structures 200 sq. ft. or less)	10 feet 5 feet	25 feet 10 feet	50 feet 50 feet	75 feet 75 feet
	From intermittent streams	0 feet	25 feet	50 feet	50 feet
	From perennial streams, springs, & sinkholes	100 feet	100 feet	100 feet	100 feet

- 3-A-1-d Maximum Height of All Structures: 35 feet, except on parcels with a width of less than 75 feet, structures shall not exceed a height of 25 feet, and as otherwise provided.
(10/18/11)

- 3-A-1-e Installation of Waterworks or Sewerage System & Treatment Works
No use in this District commencing operation after 1 July 1997 shall result in the installation of Waterworks or Sewerage System & Treatment Works.

- 3-A-1-f Vegetated Property Buffer
- (2/21/03) Except for those land uses listed as exempt, existing woody vegetation within 25 feet of all
(3/12/07) property lines shall be retained on parcels of less than 20 acres recorded after 21 February
(12/15/09) 2003.
(10/18/11)
1. Dead trees and shrubs may be removed.
 2. Invasive alien species may be removed. Invasive alien species shall be those listed by the Virginia Department of Conservation and Recreation.
 3. The following types of development may be located in the vegetated property buffer, with the written approval of the Zoning Administrator and a member of the Planning Commission (preferably a Commission member from the Election District where the subject property is located), provided no more land, trees, or vegetation shall be disturbed than is necessary for construction, use, and maintenance of:
 - a. driveways and access easements of not less than 30 feet,
 - b. electric, gas, and telephone utility easements,
 - c. on-site water facilities and sewage disposal systems, if the Planning Commission determines that not allowing such facilities or systems in the buffer would prohibit the practical development of such facilities or systems,
 - d. public water and sewer lines (including water and sewer lines
 - e. constructed by private interests for dedication to public agencies),
 - f. fences, or
 4. Revegetation/tree replacement, in consultation with a Forestry Consultant or Certified Arborist and within the guidelines described below, shall be required for all areas where any clearing occurs in excess of the standards for maximum cleared area or in required vegetative buffer.
 - a. Replacement criteria.

Trees that are removed shall be replaced so that there is, at a minimum, no loss of tree canopy coverage upon maturity of the replacement trees. All trees to be used as replacement trees shall be:

 - (1) a Virginia native tree species as identified in the Virginia Department of Forestry's Tree Seedling Brochure described by the Virginia Native Plant Society (<http://www.dcr.virginia.gov/dnh/native.htm>);
 - (2) be of minimum quality as identified in the American Standard for Nursery Stock (ANSI Z60.1-2004) (as amended);
 - (3) planted as described in the American Standard for Nursery Stock ANSI Z60.1-2004 (as amended); by a qualified landscape contractor to insure survival; and a minimum of 4 feet in height with caliper dependent on species.
- 3-A-1-g Private driveway standards
- (6/21/05) All private driveways longer than 150 feet shall comply with all Private Access Easement travel way standards as stated in Subdivision Ordinance Section 8-J-2-c on parcels created after 21 June 2005.

3-A-2 Forestal-Open Space-Conservation District - FOC

(6/13/89) Intent: This district includes portions of the County that are located east of the Shenandoah River and that consist primarily of various open lands such as forests, mountains, farms, lakes and flood plains. The district is intended for forestal, agricultural, and low activity recreational and service uses that will facilitate the conservation and preservation of forestal, agricultural, open space and mountain lands; the protection of forestal and agricultural uses; the protection of water and clean air sheds; the conservation of water and other natural and ecological resources; the reduction of soil erosion and flood and fire hazards; and the enhancement of the aesthetic value of the district as a whole.

3-A-2-a Permitted Uses and Structures

(12/19/89) 1. Principal Uses and Structures

- (7/15/97) a. Agriculture
- (12/15/09) b. Forestry
- (07/21/15) c. Horticulture
- d. Open Space
- e. Single-family Detached Dwellings (see Section 3-D)
- f. Wineries, Farm
- g. Breweries, Farm

(7/15/97) 2. Accessory Uses and Structures

(8/21/01) Uses and structures that are customarily accessory and clearly incidental and subordinate
(10/19/04) to permitted uses and structure, including:

- (4/18/06) a. Home Occupations
- (8/19/08) b. Tenant Houses on premises of at least 20 acres, with not more than one such tenant
(11/18/08) house for each 80 acres, and further provided that any such tenant houses constructed
(11/16/10) subsequent to October 17, 1980, shall be in conformance with the provisions of
(10/18/11) Section 3-D-2
- c. One dwelling of less than 600 square feet heated area on properties of six acres or more. (see Section 3-C-2-h)
- d. Wind Turbine, Small (not more than two structures 100 feet in height or less for generating electrical energy primarily for on-site usage)
- e. Temporary Family Health Care Structure

(10/16/90) 3. Special Uses and Structures

- (5/17/94) a. Special Trade Contractors as defined by the North American Industry Classification
(10/18/94) System #238
- (2/18/97) b. Campgrounds
- (10/17/00) c. Summer Camps
- (8/21/01) d. Cemeteries
- (11/20-01) e. Churches and other places of religious assembly (with a maximum seating capacity in
(6/18/02) the main assembly area of 300 people)
- (6/15/04) f. Clubs (private)
- (5/15/07) g. Community Services
- (8/19/08) h. Country Inns
- (11/18/08) i. Historic Structure Museums
- (12/15/09) j. Processing of Agricultural Products not totally produced in Clarke County (excluding
(3/16/10) wineries, breweries, cideries, an distilleries)
- (8/17/10) k. Processing of Fruit and Vegetables
- (11/16/10)
- (2/15/11)

(10/18/11)
(10/21/14)
(07/21/15)

- l. Public Utility Uses and Structure
- m. Public Assemblies, Minor Commercial
- n. Retail and Services Businesses
- o. Sawmills
- p. Veterinary Services, Animal Hospitals, Breeding Kennels of more than 15 canine animals, Animal Shelters/Governmental
- q. Wind Turbine, Small (three or more structures 100 feet in height or less for generating electrical energy primarily for on-site usage)
- r. Wind Turbine, Small (structures greater than 100 feet in height or less for generating electrical energy primarily for on-site usage)

3-A-2-b

(7/20/93)
(6/21/05)
(2/19/08)

Lot Requirements

1. For Single Family Detached Dwellings:
 - a. Minimum Area: 3 acres for each dwelling unit right
 - b. Maximum Area: None
 - c. Minimum Width: 200 feet
2. For Other Permitted Uses, except as otherwise specified in Section 3-C, Supplementary Regulations:
 - a. Minimum Area: 2 acres
 - b. Minimum Width: 200 feet
3. Required Residual Parcel
Each subdivision plat of a parcel of record as of June 21, 2005 encompassing 40 or more acres shall have one parcel that contains a defined percentage of the total acreage in the subdivision, as shown below, left in a residual parcel with only an existing dwelling or, if no existing dwelling, not more than one dwelling unit right.

<u>Total acreage shown on subdivision plat</u>	<u>% in residual open space parcel</u>
40 to 179.99	65%
180 to 329.99	50%
330 and greater	35%

3-A-2-c

Minimum Setback Requirements

(12/19/89)
(10/16/90)
(3/18/97)
(12/21/99)
(1/7/00)
(1/16/01)
(12/17/02)
(11/16/04)
(10/18/11)

	Parcels with less than 1 acre	Parcels with at least 1 but less than 4 acres	Parcels with at least 4, but less than 20 acres	Parcels with 20 acres and greater
From the edge of a private access easement	25 feet	25 feet	50 feet	75 feet
From the centerline of a secondary highway (if state designated scenic highway, add 50 feet on parcels of 1 acre and greater)	50 feet	50 feet	75 feet	100 feet
From the edge of a primary highway right of way -with less than 5000 trips per day -with 5000 or more trips per day	25 feet 50 feet	75 feet 75 feet	100 feet 100 feet	125 feet 125 feet
From all property lines (structures 200 sq. ft. or less)	10feet 5 feet	25 feet 10 feet	50 feet 50 feet	75 feet 75 feet
From intermittent streams	0 feet	25 feet	50 feet	50 feet
From perennial streams, springs, & sinkholes	100 feet	100 feet	100 feet	100 feet

- 3-A-2-d
(10/18/11) Maximum Height of All Structures: 35 feet, except on parcels with a width of less than 75 feet, structures shall not exceed a height of 25 feet, and as otherwise noted.
- 3-A-2-e Installation of Waterworks or Sewerage System & Treatment Works
No use in this District commencing operation after July 1, 1997, shall result in the installation of Waterworks or Sewerage System & Treatment Works.
- 3-A-2-f
(2/21/03)
(6/21/05)
(12/15/09)
(10/18/11) Vegetated Property Buffer and Clearing Limits
1. Except for those clearing activities listed in section 3-A-2-f-9, existing woody vegetation shall be retained within 25 feet of all property lines on parcels of four acres or more with a dwelling constructed after 18 February 2003.
 2. Except for those clearing activities listed in section 3-A-2-f-9, existing woody vegetation shall be retained within 50 feet of the edge of public rights of way or 25 feet of the edge of private access easements on parcels of four acres or more with a dwelling constructed after 21 June 2005.
 3. Except for those clearing activities listed in section 3-A-2-f-9, existing woody vegetation shall be retained on parcels with:
 - a. an average slope (within area to be cleared) from 7% up to 15 % and over the elevation of 800 feet above sea level, except for 2 acres for a house site, and
 - b. an average slope (within area to be cleared) from 15% up to 25 %, except for 1 acre for a house site, or 1.5 acres if an erosion and sediment control plan is prepared by a professional engineer and approved by the Zoning Administrator for dwellings constructed after 21 June 2005.
 4. Except for those clearing activities listed in section 3-A-2-f-9, clearing is allowed within 200 feet of the house site area described in the previous section provided:
 - a. there are no clear-cut openings,
 - b. the thinning of trees of 2 inches or more in diameter (measured 4.5 feet above ground), is allowed, if randomly spaced with not more than 50% of the crown cover removed within any 10 year period,
 - c. pruning of branches is limited to the bottom 1/3 of the tree, and
 - d. this clearing within 200 feet of house site areas shall be done before issuance of final certificate of occupancy.
 5. Except for those clearing activities listed in section 3-A-2-f-9, existing woody vegetation shall be retained on all parcels:
 - a. on slopes of 25% or more, and
 - b. on slippage soils.
 6. Tree Protection during Construction
 - a. Critical Root Zone
Tree preservation areas shall be identified on the subdivision plat or construction plans. A “critical root zone” (CRZ) shall be delineated on the plans and clearly marked and protected in the field prior to any land disturbance. The CRZ is the area underneath the Tree Drip Line as defined in Section 9-B-180.
- (1) General Requirements
- a. Before any land disturbance, suitable protective barriers, such as safety fencing, shall be erected outside of the CRZ of any tree or stand of trees to be preserved. Protective barriers shall remain so erected throughout all phases of construction. No grade changes or storage of equipment, materials, debris, or fill shall be allowed within the area protected by the barrier. No construction traffic, parking of vehicles, or disposal of liquids is permitted within the CRZ.

- b. Trees likely to die as a result of site disturbance activities within 25 feet of the safety fence, as identified in the tree conservation plan, shall be removed.
- 7. Revegetation/tree replacement, in consultation with a Forestry Consultant or Certified Arborist and within the guidelines described below, shall be required for all areas where any clearing occurs in excess of the standards for maximum cleared area or in required vegetative buffer.
 - a. Replacement criteria.

Trees that are removed shall be replaced so that there is, at a minimum, no loss of tree canopy coverage upon maturity of the replacement trees. All trees to be used as replacement trees shall be:

 - (1) a Virginia native tree species as identified in the Virginia Department of Forestry's Tree Seedling Brochure described by the Virginia Native Plant Society (<http://www.dcr.virginia.gov/dnh/native.htm>);
 - (2) be of minimum quality as identified in the American Standard for Nursery Stock (ANSI Z60.1-2004) (as amended);
 - (3) planted as described in the American Standard for Nursery Stock ANSI Z60.1-2004 (as amended); by a qualified landscape contractor to insure survival; and a minimum of 4 feet in height with caliper dependent on species.
- 8. Clearing for agricultural uses shall require a Conservation Farm Management Plan approved by either the regional Soil and Water Conservation District or the federal Natural Resources Conservation Service and submitted to the County Zoning Administrator.
- 9. The following clearing activities shall be allowed in the no-clear areas:
 - a. Dead trees and shrubs may be removed.
 - b. Invasive alien species may be removed. Invasive alien species shall be those listed by the Virginia Department of Conservation and Recreation.
 - c. Forestry activities as described in Section 3-C-2-k.
 - d. Clearing for the following activities may occur in the vegetated property buffer, with the written approval of the Zoning Administrator and a member of the Planning Commission (preferably a Commission member from the Election District where the subject property is located), provided no more land, trees, or vegetation shall be disturbed than is necessary for construction, use, and maintenance of:
 - (1) driveways and access easements of not more than 30 feet wide,
 - (2) electric, gas, and telephone utility easements,
 - (3) on-site water facilities and sewage disposal systems, if the Planning Commission determines that not allowing such facilities or systems in the buffer would prohibit the practical development of such facilities or systems
 - (4) public water and sewer lines (including water and sewer lines constructed by private interests for dedication to public agencies,
 - (5) fences, or
 - (6) Forestry activities as described in 3-C-2-k, or

3-A-2-g Private driveway standards

(6/21/05)

All private driveways longer than 150 feet shall comply with all Private Access Easement travel way standards as stated in Subdivision Ordinance Section 8-J-2-c on parcels created after 21 June 2005.

3-A-3

Rural Residential District (RR)

(6/13/89) Intent: This district is for single-family residential and open space areas and is intended to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life, and to prohibit all activities of a commercial or industrial nature.

3-A-3-a

Permitted Uses and Structures

- (6/13/89) 1. Principal Uses and Structures
 - (7/15/97) a. Forestry
 - (10/19/04) b. Horticulture
 - (6/15/04) c. Open Space
 - (11/18/08) d. Single-family Detached Dwellings
- (11/16/10) 2. Accessory Uses and Structures

Uses and structures that are customarily accessory and clearly incidental and subordinate to permitted uses and structures including:

 - (2/15/11) a. Home Occupations
 - (10/18/11) b. Wind Turbine, Small (not more than two structures 100 feet in height or less for generating electrical energy primarily for on-site usage)
 - c. Health Care Structure
- 3. Special Uses and Structures
 - a. Agriculture
 - b. Churches and other places of religious assembly (with a maximum seating capacity in the main assembly area of 300 people)
 - c. Community Services
 - d. Historic Structure Museums
 - e. Golf Course
 - f. Wind Turbine, Small (three or more structures 100 feet in height or less for generating electrical energy primarily for on-site usage)
 - g. Wind Turbine, Small (structures greater than 100 feet in height or less for generating electrical energy primarily for on-site usage)

3-A-3-b

Lot Requirements

- (11/16/93) 1. For property not in a County Sewer Service Area
 - (3/19/03) a. Minimum Area: 1 acre
 - (7/19/05) b. Maximum Area for Single Family Dwellings: 4 acres
 - c. Maximum Average Area for All Lots in a
 - d. Subdivision for Single Family Dwellings: 2 acres
 - e. Minimum Frontage: 150 feet
- 2. For property in a County Sewer Service Area
 - a. Minimum Area: 30,000 sq ft
 - b. Maximum Area for Single Family Dwellings: 1 acre
 - c. Minimum Frontage: 75 feet

3-A-3-c

Minimum Yard Requirements

	Parcels with less than 15,000 sq. ft.	Parcels with 15,000 sq. ft or more
(1/16/01)		
(12/17/02)		
(11/16/04)		
(10/18/11)		
From the edge of a private access easement	15 feet*	25 feet
From the centerline of a secondary highway	40 feet*	50 feet
From the edge of a primary highway right of way		

With less than 5000 trips per day	15 Feet*	25 feet
With 5000 or more trips per day	40 feet*	50 feet
* add 10 feet for entrance side of garages, carports, or other structures used to house vehicles		
From side property lines	5 feet	10 feet
From rear property lines	25 feet	35 feet
(structures 200 sq. ft. or less)	5 feet	10 feet
From intermittent streams	0 feet	25 feet
From perennial streams, springs, & sinkholes	100 feet	100 feet

- 3-A-3-d (7/19/05) Maximum Residential Structure Size for property in a County Sewer Service Area
The maximum heated floor area of a dwelling shall not exceed: 2,000 sq ft or 10% of the lot area, whichever is greater.
- 3-A-3-e Maximum Lot Coverage by All Impervious Surfaces: 30 percent
- 3-A-3-f (11/16/04) Maximum Height of All Structures: 35 feet, except on parcels with a width of less than 75 feet, structures shall not exceed a height of 25 feet, and as otherwise provided.
- 3-A-3-g (7/19/05) Critical Environmental Areas (CEAs)
 1. CEAs are 100 year flood plains, slopes in excess of 25 percent, and the area within 100 feet of perennial streams, perennial springs, and the discernable edge of sinkholes.
 2. Structures requiring building permits shall not be located in CEAs.
 3. CEAs shall not be included in maximum or minimum lot area or any density calculations, or be used to meet open space requirements.
- 3-A-3-h (8/15/06) Additional Regulations
The height of an accessory building shall not exceed 12 feet.
- 3-A-3-i (2/19/08) Access Easement Areas
Areas covered by access easements shall not be included in maximum or minimum lot area or any density calculations, or be used to meet open space requirements.

3-A-4

Open Space Residential District – OSR

Intent: The Open Space Residential (OSR) District is created to preserve and protect two sensitive areas in the Town of Berryville and within the precincts of the Berryville Area Plan: 1. existing residential properties and estates which have cultural and/or historical value, and 2. property with critical environmental features including 100 year flood plains, sink holes, slopes in excess of 15% and, rock outcrops. The maximum density of one residence per ten net developable acres establishes this district as one with a low-density residential character. This district shall have the intent of preserving valued residences, promoting open space, and protecting existing vegetation and sensitive environmental areas within the district boundaries.

3-A-4-a (9/17/96)

Permitted Uses

1. Principal Uses and Structures
 - a. Single family detached dwellings
 - b. Accessory uses to include Home Occupations, detached carport and garages, tool sheds, children's playhouses, tennis courts, private swimming pools and dog houses.
 - c. Municipal utilities
2. Special Uses and Structures
 - a. Commercial swimming pools, tennis courts, and golf courses.
 - b. Country Inns
 - c. Libraries, museums and shrines
 - d. Plant nurseries, with no sale of nursery products permitted on premises.
 - e. Private and public schools, parks, playgrounds and related uses.
 - f. Public utility uses (sub-stations, pump stations, storage tanks, etc.) and related easements, except for municipal utilities.

3-A-4-b

Maximum Density

1. One dwelling unit per ten net developable acres, or 0.1 units per net acre.
2. A maximum floor area ratio of 0.10 shall apply to uses other than residential.

3-A-4-c

(2/17/04)
(4/20/04)

Lot Size, Yard and Bulk Requirements

1. Minimum lot area: 10 acres
2. Minimum lot width: 300 feet
3. Minimum lot depth: 300 feet
4. Minimum yard requirements:
 - a. Front yard: 50 feet
 - b. Side yard: 50 feet
 - c. Rear yard: 50 feet
5. Maximum building height: 35 feet
6. Environmental Setbacks

All Structures shall be set back 25 feet from intermittent streams and 100 feet from perennial streams and springs. The above stream setbacks do not apply where floodplains are identified on Flood Insurance Rate Maps (FIRM).

3-A-4-d

(2/17/04)
(6/8/04)

Additional Regulations

1. Refer to Section 3-C for general regulations and other provisions which may supplement those cited herein.
2. Refer to Section 4-J for off-street parking requirements.
3. Refer to specific Overlay Zoning Districts, where applicable.
4. Sinkholes or karst features on lots platted before 17 February 2004, shall be mitigated as

described in the Virginia Department of transportation's Location and Design Division Instructional and Informational Memorandum 228 (IIM-LD-228), or other applicable mitigation standard as recommended by a PE or PG, as approved by the County's Engineer. Sinkholes or karst features on lots platted after 17 February 2004, shall be mitigated in accordance with the Virginia Department of Transportation's Location and Design Division Instructional Informational Memorandum 228 (IIM-LD-228) or other means as approved by the County's engineer and County staff.

3-A-5

Detached Residential - 1 (DR-1)

Intent: The Detached Residential - 1 (DR-1) District is created to provide for single family detached residences in a carefully planned pattern compatible with the comprehensive plan's goals for residential development in the Town of Berryville and within the precincts of the Berryville Area Plan. A maximum density of one unit per net developable acre establishes a low density district for detached residences. This district shall be applied with the intent of preserving existing natural features and vegetation, promoting excellence in site planning and landscape design, and encouraging housing of compatible scale and architectural character.

3-A-5-a

Permitted Uses

1. Principal Uses and Structures
 - a. Single-family detached dwellings.
 - b. Accessory uses, to include detached carport and garages, tool sheds, children's playhouses, dog houses and private swimming pools.
 - c. Municipal utilities
2. Special Uses and Structures
 - a. Bed and breakfast lodging occupying more than 300 sq. ft. of a residence.
 - b. Cemeteries
 - c. Churches and shrines
 - d. Day care homes
 - e. Fire stations
 - f. Home occupations and home offices as defined in Section 9-B-96.
 - g. Libraries and museums
 - h. Plant nurseries, with no sale of nursery products permitted on premises
 - i. Private or public schools, parks, playgrounds and related uses
 - j. Public utility uses (sub-stations, pump stations, storage tanks, etc.) and related easements, except for municipal utilities
 - k. Recreational uses such as public or private swimming pools, tennis courts and golf courses.

3-A-5-b

Maximum Density

1. One dwelling unit per net developable acre.
2. A maximum floor area ratio of 0.15 shall apply to uses other than residential.

3-A-5-c

(7/21/98)

(4/20/04)

Lot Size, Yard and Bulk Requirements for Conventional Lots

1. Lot area: (see Section 3-C-3 regarding impact of critical environmental areas on lot size requirements)
2. Minimum: 40,000 sq. ft.
3. Maximum: 60,000 sq. ft.
4. Minimum lot width:
 - a. Interior lot: 125 feet
 - b. Corner lot: 150 feet
5. Minimum yard requirements:
 - a. Front yard: 40 feet
 - b. Side yard: 15 feet
 - c. Rear yard: 50 feet
 - d. Side and Rear yard: 5 feet setback for accessory structures
6. Maximum building height: 35 feet

3-A-5-d
(7/21/98)

Minimum District Size for Cluster Subdivision:

4 acres

3-A-5-e
(4/20/04)

Lot Size, Yard and Bulk Requirements for Cluster Lots

1. Minimum lot area: 20,000 square feet
2. Maximum lot area: 45,000 square feet
(See Section 3-C-3 regarding impact of critical environmental areas on lot size requirements.)
3. Minimum lot width:
 - a. Interior lot: 100 feet
 - b. Corner lot: 120 feet
4. Minimum yard requirements:
 - a. Front yard: 35 feet
 - b. Side yard: 15 feet
 - c. Rear yard: 45 feet
 - d. Side/Rear yard: 5 feet for accessory structure
5. Maximum building height: 35 feet

3-A-5-f

Open Space Requirements for Detached Residential-1 (DR-1) Subdivisions

In subdivisions approved for cluster development, a minimum of 15% of the net site area (which excludes one hundred year flood plains, sinkholes, and slopes exceeding 25% and 50% of land with slopes between 15 and 25%) shall be open space dedicated to common usage and ownership.

3-A-5-g
(2/17/06)
(2/17/04)
(6/8/04)

Additional Regulations

1. Refer to Section 3-C for general regulations and other provisions that may supplement those cited herein.
2. Refer to Section 4-J for off-street parking requirements.
3. Refer to specific Overlay Zoning Districts, where applicable.
4. Refer to Section 3-C-3 for special regulations relating to cluster subdivisions, open spaces and critical environmental areas.
5. Sinkholes or karst features on lots platted before 17 February 2004, shall be mitigated as described in the Virginia Department of Transportation's Location and Design Division Instructional and Informational Memorandum 228 (IIM-LD-228), or other applicable mitigation standard as recommended by a PE or PG, as approved by the County's Engineer. Sinkholes or karst features on lots platted after 17 February 2004, shall be mitigated in accordance with the Virginia Department of Transportation's Location and Design Division Instructional and Informational Memorandum 228 (IIM-LD-228) or other means as approved by the County's engineer and County staff.
6. Environmental Setbacks: All Structures shall be set back 25 feet from intermittent streams and 100 feet from perennial streams and springs. The above stream setbacks do not apply where floodplains are identified on Flood Insurance Rate Maps (FIRM).

3-A-6

Detached Residential - 2 (DR-2)

Intent: The Detached Residential - 2 (DR-2) District is created to provide for single family detached residences in a carefully planned pattern compatible with the comprehensive plan's goals for residential development in the Town of Berryville and within the precincts of the Berryville Area Plan. A maximum density of two units per net developable acre establishes a low density district for detached residences. This district shall be applied with the intent of preserving existing natural features and vegetation, promoting excellence in site planning and landscape design, and encouraging housing of compatible scale and architectural character. Cluster residential development shall be encouraged and permitted, by right, so that specific environmental preservation and land use goals may be promoted.

3-A-6-a

Permitted Uses

1. Principal Uses and Structures

- a. Single-family detached dwellings, either a conventional dispersed layout or a clustered layout subdivision; a clustered subdivision requires site plan approval.
- b. Accessory uses, to include detached carport and garages, tool sheds, children's playhouses, dog houses and private swimming pools.
- c. Municipal utilities

2. Special Uses and Structures

- a. Bed and breakfast lodging occupying more than 300 sq. ft. of a residence.
- b. Cemeteries
- c. Churches and shrines
- d. Day care homes
- e. Fire stations
- f. Home occupations and home offices as defined in Section 9-B-96.
- g. Libraries and museums
- h. Plant nurseries, with no sale of nursery products permitted on premises
- i. Private or public schools, parks, playgrounds and related uses
- j. Public utility uses (sub-stations, pump stations, storage tanks, etc.) and related easements, except for municipal utilities.
- k. Recreational uses such as public or private swimming pools, tennis courts and golf courses.

3-A-6-b

Maximum Density

1. Two dwelling units per net developable acre.
2. A maximum floor area ratio of 0.15 shall apply to uses other than residential.

3-A-6-c

(12/15/92)

(4/20/04)

Lot Size, Yard and Bulk Requirements for Conventional Lots

1. Lot area: (See Section 3-C-3 regarding impact of critical environmental areas on lot size requirements.)
2. Minimum: 20,000 sq. ft.
3. Maximum: 45,000 sq. ft.
4. Minimum lot width:
 - a. Interior lot: 100 feet
 - b. Corner lot: 120 feet
5. Minimum yard requirements:
 - a. Front yard: 30 feet
 - b. Side yard: 15 feet
 - c. Rear yard: 40 feet

- d. Side and Rear Yard 5 feet setback for Accessory structures:
 - 6. Maximum building height: 35 feet
- 3-A-6-d Minimum District Size for Cluster Subdivision: 4 acres
- 3-A-6-e (4/20/04) Lot Size, Yard and Bulk Requirements for Cluster Lots
 - 1. Minimum lot area: 12,500 square feet
 - 2. Maximum lot area: 30,000 square feet
(See Section 3-C-3 regarding impact of critical environmental areas on lot size requirements.)
 - 3. Minimum lot width:
 - a. Interior lot: 75 feet
 - b. Corner lot: 90 feet
 - 2. Minimum yard requirements:
 - a. Front yard: 25 feet
 - b. Side yard: 10 feet
 - c. Rear yard: 35 feet
 - d. Side and Rear yard 5 feet setback for Accessory structures:
 - 5. Maximum building height: 35 feet
- 3-A-6-f Open Space Requirements for Detached Residential (DR-2) Subdivisions
In subdivisions approved for cluster development, 20% of the net site area (which excludes one hundred year flood plains, sinkholes and slopes exceeding 25% and 50% of land with slopes between 15 and 25%) shall be open space dedicated to common usage and ownership.
- 3-A-6-g (2/17/04) (6/8/04) Additional Regulations
 - 1. Refer to Section 3-C for general regulations and other provisions that may supplement those cited herein.
 - 2. Refer to Section 4-J for off-street parking requirements.
 - 3. Refer to specific Overlay Zoning Districts, where applicable.
 - 4. Refer to Section 3-C-3 for special regulations relating to cluster subdivisions, open spaces and critical environmental areas.
 - 5. Sinkholes or karst features on lots platted before 17 February 2004, shall be mitigated as described in the Virginia Department of Transportation's Location and Design Division Instructional and Informational Memorandum 228 (IIM-LD-228), or other applicable litigation standard as recommended by a PE or PG, as approved by the County's Engineer. Sinkholes or karst features on lots platted after 7 February 2004, shall be mitigated in accordance with the Virginia Department of Transportation's Location and Design Division Instructional and Informational Memorandum 228 (IIM-LD-228) or other means as approved by the County's engineer and County staff.
 - 6. Environmental Setbacks: All Structures shall be set back 50 feet from intermittent streams and 100 feet from perennial streams and springs. The above stream setbacks do not apply where floodplains are identified on Flood Insurance Rate Maps (FIRM).

3-A-7

Detached Residential- 4 (DR-4)

Intent: The Detached Residential - 4 (DR-4) District is created to provide for the single family detached residences at higher densities than other single family detached districts. A maximum density of four (4.0) units per net developable acre establishes a medium-low density district for detached residences. The application of this district shall be to undeveloped tracts lying within the Town of Berryville and within the precincts of the Berryville Area Plan, as well as to fill lots within the existing stable neighborhoods, with the intent of preserving existing natural features and vegetation, promoting excellence in site planning and landscape design, and encouraging housing of compatible scale and architectural character. Cluster residential development shall be encouraged and permitted, by right, so that specific environmental preservation and land use goals may be promoted.

3-A-7-a

Permitted Uses

1. Principal Uses and Structures

- a. Single-family detached dwellings, either a conventional dispersed layout or a clustered layout subdivision; a clustered subdivision requiring site plan approval.
- b. Accessory uses, to include detached carport and garages, tool sheds, children's playhouses, dog houses and private swimming pools.
- c. Municipal utilities

2. Special Uses and Structures

- a. Bed and breakfast lodging occupying more than 300 sq. ft. of a residence.
- b. Cemeteries
- c. Churches and shrines
- d. Community buildings, public and private
- e. Day care homes, day care centers and nursery schools
- f. Fire stations
- g. Home occupations and home offices as defined in Section 9-B-92.
- h. Libraries, museums and historic markers
- i. Plant nurseries, with no sale of nursery products permitted on premises
- j. Private or public schools, parks, playgrounds and related uses
- k. Public utility uses (sub-stations, pump stations, storage tanks, etc.) and related easements, except for municipal utilities
- l. Recreational uses such as public swimming pools, tennis courts and golf courses.

3-A-7-b

Maximum Density

1. Four (4.0) dwelling units per net developable acre
2. A maximum floor area ratio of 0.15 shall apply to uses other than residential.

3-A-7-c

(12/15/92)
(4/20/04)

Lot Size, Yard and Bulk Requirements for Conventional Lots

1. Lot area: (See Section 3-C-3 regarding the impact of critical environmental areas on lot size requirements.)
 - a. Minimum 10,000 sq. ft.
 - b. Maximum: 30,000 sq. ft.
2. Minimum lot width:
 - a. Interior lot: 75 feet
 - b. Corner lot: 90 feet

3. Minimum yard requirements:
 - a. Front yard: 20 feet for primary structures;
25 feet for garages, carports, or other structures used to house vehicles
 - b. Side yard: 10 feet
 - c. Rear yard: 30 feet
 - d. Side and Rear yard: 5 feet setback for Accessory structures
4. Maximum building height: 35 feet

3-A-7-d Minimum District Size for Cluster Subdivisions: 2 acres

3-A-7-e Lot Size, Yard and Bulk Requirements for Clustered Lots

(4/20/04)

1. Minimum lot area: 7,500 square feet
2. Maximum lot area: 20,000 square feet
(See Section 3-C-3 regarding the impact of critical environmental areas on lot size Requirements).
3. Minimum lot width:
 - a. Interior lot: 60 feet
 - b. Corner lot: 75 feet
4. Minimum yard requirements:
 - a. Front yard: 15 feet for primary structures; 25 feet for garages, carports, or other structures used to house vehicles
 - b. Side yard: 10 feet
 - c. Rear yard: 25 feet
 - d. Side and Rear yard: 5 feet setbacks for Accessory Structures
5. Maximum building height: 35 feet

3-A-7-f Open Space Requirements for Detached Residential Subdivisions

1. In subdivisions approved for cluster development, 20% of the net site area (which excludes one hundred year flood plains, sinkholes and slopes exceeding 25% and 50% of land with slopes between 15 and 25%) shall be open space dedicated to common usage and ownership.
2. In cluster subdivisions, at least one-fourth of the required open space (5% of the net site area) shall be developed and designed for recreational and active community open space.

3-A-7-g

(6/8/04)

(2/17/04)

Additional Regulations

1. Refer to Section 3-C for general regulations and other provisions that may supplement those cited herein.
2. Refer to Section 4-J for off-street parking requirements.
3. Refer to specific Overlay Zoning Districts, where applicable.
4. Refer to Section 3-C-3 for special regulations relating to cluster subdivisions, critical environmental areas and open spaces.
5. Sinkholes or karst features on lots platted before 17 February 2004, shall be mitigated as described in the Virginia Department of Transportation's Location and Design Division Instructional and Informational Memorandum 228 (IIM-LD-228), or other applicable mitigation standard as recommended by a PE or PG, as approved by the County's Engineer. Sinkholes or karst features on lots platted after 17 February 2004, shall be mitigated in accordance with the Virginia Department of Transportation's Location and Design Division Instructional and Informational Memorandum 228 (IIM-LD-228) or other means as approved by the County's Engineer and County staff.
6. Environmental Setbacks: All Structures shall be set back 25 feet from intermittent streams and 100 feet from perennial streams and springs. The above stream setbacks do not apply where floodplains are identified on Flood Insurance Rate Maps (FIRM).

3-A-8

Business Commercial (BC)

Intent: The Business Commercial (BC) District is established to provide locations for highway commercial uses (such as retail uses dependent on automobile access, restaurants, and motels), offices, and employment related businesses within the precincts of the Berryville Area Plan. The BC District is further established to encourage innovative design of office, employment, and retail related development; and to these ends, development under this district is permitted only in accordance with a site plan.

The application of this district is intended for newly developing locations in the Berryville Area where office, retail, and similar activities are the principal use. High quality business park and commercial site design principals are to be incorporated into the BC District uses. Highway oriented commercial uses shall be located where they are pre-planned and creatively grouped in an efficient manner meeting the comprehensive planning objectives.

The specific uses permitted within the BC District must be in harmony with the cultural and environmental character of the Berryville Area. No use should be permitted which might be harmful to the adjoining land uses and the residential ambiance of the community at-large. Adequate transportation and site planning of all land uses shall have the goal of minimizing traffic conflicts with all other activities within the Berryville Area.

3-A-8-a (10/2/91)

Permitted Uses

1. Principal Uses and Structures

- a. Antique Sales (indoor only)
- b. Automobile service and repair establishments (including gas stations), with a convenience store (not occupying more than 2,000 square feet of gross floor area, excluding storage) as an accessory use, provided that all vehicle repair takes place in a fully enclosed building
- c. Automobile sales
- d. Broadcast station, studios, and offices for radio and television
- e. Car washes
- f. Churches and other places of worship
- g. Clubs or Lodges (including civic and public benefit organizations)
- h. Day care centers
- i. Financial institutions (with or without drive-thru windows)
- j. Funeral homes
- k. Government and other public buildings (including police, fire, library, museum, and postal facilities; excluding retail and service uses, except as provided in section 3-A-8-a-1-u.
- l. Grocery store (with at least 25,000 square feet gross floor area).
- m. Hotels and Motels
- n. Laundromat
- o. Medical care facilities, licensed
- p. Offices, Business or Professional
- q. Plant nurseries
- r. Public utilities and related easement
- s. Recreation facilities (indoor/outdoor), parks, playgrounds, fairgrounds, etc.
- t. Restaurants with or without drive-thru
- u. Retail and Service uses provided that:

- (1) The areas to be reserved for retail uses shall be subject to those locations indicated on an approved site plan for the development,

- (2) The gross floor area of the retail uses (excluding storage) shall not exceed 10% of the total proposed gross floor area as shown on the project site plan, or occupy more than 2,000 square feet of gross floor area of any individual structure
 - v. Schools, public and private
 - w. Veterinary hospitals (small animals), exclusive of out-door boarding kennels
 - 2. Special Uses and Structures
 - a. Conference centers
 - b. Scientific research and development establishments
 - c. Theaters, in-door
- 3-A-8-b Maximum Density
The maximum density shall not exceed a floor area ratio (FAR) of .30, based on the net developable area of the lot.
- 3-A-8-c Minimum District Size: 4 acres
- 3-A-8-d Lot Requirements:
 - 1. Minimum lot area: 20,000 square feet
 - 2. Minimum lot width: 100 feet
- 3-A-8-e Building Height and Setback Regulations
 - 1. Maximum building height: 40 feet
 - 2. Minimum yard requirements
 - a. Front yard: 40 feet
 - b. Side yard: 25 feet (40 feet on street side of corner lot)
 - c. Rear yard: 25 feet
 - d. Where a lot is contiguous to property located in any residential district, all buildings shall have a minimum setback of 40 feet from common property lines.
- 3-A-8-f Open Space
 - 1. A landscape and buffer plan shall be submitted with any application for site plan approval.
 - 2. Twenty percent (20%) of the gross site area shall be landscaped open space.
- 3-A-8-g Additional Regulations
 - 1. Parking, Streets, and Access
 - a. All parking requirements shall be met by off-street, on-site spaces and shall include designated spaces for the handicapped.
 - b. The location, spacing and number of private driveway entrances shall comply with Virginia Department of Transportation standards and shall be subject to final site plan approval.
 - c. Off-street parking spaces shall be accessed via private driveways and shall not be directly accessed from public rights of way.
 - 2. Buffering and Landscaping
 - a. Where a parcel in the BC district is contiguous to a residential zoning district or public right of way with limited access, a landscaped buffer strip 15 feet in width shall be provided.

- b. Landscape materials and their placement shall be subject to final site plan approval. With the approval of the administrative body, walls, fences, or wider buffer strips may be used in lieu of landscaping.
- 3. Storage of Materials and Refuse
 - a. All refuse containers shall be screened by a solid wall or fence.
 - b. Any establishment involved with the storage of any fuel for sale, for on-site use, or for any other purposes, shall be permitted only if the fuel is stored underground, except where otherwise permitted under provisions granted and stipulations required by the administrative body.
 - c. All storage shall be conducted within the principal structure, which is to be completely enclosed.
 - d. There shall be no outdoor storage and/or display of goods, with the exception of retail display such as plant materials associated with nurseries.
- 4. Uses, Facilities and Improvements
 - a. All business services (and storage) shall be conducted within the principal structure, which is to be completely enclosed.
 - b. Signing, mailboxes, site lighting and architectural materials shall be provided and installed by the property's owner-developer and shall be consistent and compatible with the scale and character of the development.
 - c. Private streets, street lighting, sidewalks, curbing and gutters, and parking bays shall be constructed to standards specified by the administrative authority or its agent.
 - d. Of the Freestanding Signs allowed in Section 4-I-3-b, one of these signs may be located on a property other than the property to which the freestanding sign directs attention, provided that:
 - (1) the property on which the sign is located is in the same Business Commercial, BC, zoning district as the property to which the freestanding sign directs attention,
 - (2) the property on which the sign is located is within 1000 feet of the property to which the freestanding sign directs attention, and
 - (3) the off-site freestanding sign is not closer than 100 feet to any other freestanding sign.
- 5. Site Plan
 - a. A site plan, which shall govern all development, shall be submitted for approval.
 - b. Site plans shall include provisions for:
 - (1) adequate public facilities,
 - (2) development phasing,
 - (3) stormwater management facilities to address the ultimate development coverage within the district,
 - (4) lighting and signing,
 - (5) building placement and lot configuration, and
 - (6) other special site features and land use considerations deemed necessary to serve the district.
 - c. Any site plan application which is not in strict conformance with a pre-existing approved master plan for the district shall require an amendment to that master plan and preliminary plat, if necessary, prior to site plan approval of the specific use.
 - d. All uses shall be subject to final site plan approval.

3-A-9

Business (B)

Intent: The Business (B) District is established to provide locations for a broad range of general business activities, particularly employment-related businesses, in a business park setting in the precincts of the Berryville Area Plan. The B District is established to encourage innovative design of employment related development; to these ends, development under this district will be permitted only in accordance with a site plan. The B District is intended to provide business "incubator" locations that allow one or more small businesses to operate in one or more buildings under common ownership.

The specific uses permitted within the B District must be in harmony with the cultural and environmental character of the Town of Berryville. No use should be permitted which might be harmful to adjoining land uses or to the community at large. Adequate transportation and site planning of all land uses shall have the goal of minimizing traffic conflicts with all other activities within the Berryville Area.

3-A-9-a (10/18/94)

Permitted Uses

1. Principal Uses and Structures

- a. Antique Sales (indoor only)
- b. Auction establishments (indoor only)
- c. Automobile service and repair establishments (including gas stations) provided that all repair of vehicles takes place in a fully enclosed building
- d. Bakeries (with retail sales as provided in Section 3-A-9-a-1-w)
- e. Broadcast station, studios, and offices for radio and television
- f. Churches and other places of worship
- g. Cleaning of carpets and rugs
- h. Clubs or Lodges (including civic and public benefit organizations)
- i. Conference centers
- j. Contractor's establishments
- k. Financial institutions (with or without drive-thru windows)
- l. Government and other public buildings (including police, fire, library, museum, and postal facilities; excluding retail and service uses, except as provided in section 3-A-9-a-1-w).
- m. Machinery sales and service.
- n. Manufacturing, processing, assembly, or repair activities that are not objectionable because of smoke, odor, dust, or noise, or result in air or water pollution levels above any local, state, or federal regulations.
- o. Medical care facilities, licensed
- p. Mini-Storage facilities (indoor only)
- q. Offices, Business or Professional
- r. Plant nurseries
- s. Printing and publishing
- t. public utilities and related easements
- u. Recreation facilities (indoor/outdoor), parks, playgrounds, fairgrounds, etc.
- v. Restaurants with or without drive-thru
- w. Retail and Service uses provided that:
 - (1) The areas to be reserved for retail uses shall be subject to those locations indicated on an approved site plan for the development,
 - (2) The gross floor area of the retail uses (excluding storage) shall not exceed 10% of the total proposed gross floor area as shown on the project site plan, or occupy

- more than 2,000 square feet of gross floor area of any individual structure;
 - x. Schools, public and private, academic and vocational
 - y. Warehousing and distribution establishments
 - z. Wholesale trade and distribution establishments
 - aa. Veterinary hospitals (small animals), exclusive of out-door boarding kennels
 - 2. Special Uses and Structures
 - a. Day care centers
 - b. Scientific research and development establishments
 - c. Lumber yards and building materials establishments
- 3-A-9-b Maximum Density
The maximum density shall not exceed a floor area ratio (FAR) of .30 based on the net developable area of the lot.
- 3-A-9-c Minimum District Size: 4 acres
- 3-A-9-d Lot Requirements
 - 1. Minimum lot area: 20,000 square feet
 - 2. Minimum lot width: 100 feet
- 3-A-9-e Building Height and Setback Regulations
 - 1. Maximum building height: 40 feet
 - 2. Minimum yard requirements
 - a. Front yard: 40 feet
 - b. Side yard: 25 feet (40 feet on street side of corner lot)
 - c. Rear yard: 25 feet
 - d. Rear yard requirements may be reduced where that rear yard abuts a railroad right of way.
 - e. Where a lot is contiguous to property located in any residential district, all buildings shall have a minimum setback of 40 feet from common property lines.
- 3-A-9-f Open Space
 - 1. A landscape and buffer plan shall be submitted with any application for site plan approval.
 - 2. Fifteen percent (15%) of the gross site area shall be landscaped open space.
- 3-A-9-g Additional Regulations
 - 1. Parking, Streets, and Access
 - a. All parking requirements shall be met by off-street, on-site spaces and shall include designated spaces for the handicapped.
 - b. The location, spacing, and number of private driveway entrances shall comply with Virginia Department of Transportation standards and shall be subject to final site plan approval.
 - c. Off-street parking spaces shall be accessed via private driveways and shall not be directly accessed from public rights of way.
 - d. Public streets within or immediately adjacent to the B zoning district shall be constructed to industrial road standards if determined necessary by the administrative body. Sidewalks may be required on such streets if determined necessary by the administrative body.

2. Buffering and Landscaping
 - a. Where a parcel in the B zoning district is contiguous to a residential zoning district or a public right of way of 60 feet or more, a landscaped buffer strip 15 feet wide shall be provided. Such a buffer strip shall include any combination of masonry or wooden walls or fences and/or evergreen shrubs that provide an opaque visual buffer at least 6 feet high within 6 months of occupancy of a parcel.
 - b. Where a parcel in the B zoning district is contiguous to another non-residential zoning district, a landscaped buffer strip 10 feet in width shall be provided.
 - c. Landscape materials and their placement shall be subject to final site plan approval. With the approval of the administrative body, walls, fences, or wider buffer strips may be used in lieu of landscaping.
 - d. Common property ownership agreements and covenants shall be reviewed and approved by the administrative body.
3. Storage of Materials and Refuse
 - a. All refuse containers shall be screened by a solid and opaque wall or fence.
 - b. Any establishment involved with the storage of any fuel for sale, for on-site use, or for any other purposes, shall be permitted only if the fuel is stored underground, except where otherwise permitted under provisions granted and stipulations required by the administrative body.
 - c. The outdoor area devoted to storage, loading, and display of goods shall be limited to that area so designated on an approved site plan.
 - d. Outdoor storage for any use in the B zoning district shall be completely enclosed within solid and opaque masonry, metal, or wooden fences at least 6 feet in height.
 - e. No material or equipment within an outdoor storage area shall be visible from any public right of way or any parcel in a residential zoning district.
4. Uses, Facilities and Improvements
 - a. All business activities shall be conducted within the principal structure which is to be completely enclosed.
 - b. Signing, mailboxes, site lighting and architectural materials shall be provided and installed by the property's owner-developer and shall be consistent and compatible with the scale and character of the development.
 - c. Private streets, street lighting, sidewalks, curbing and gutters, and parking bays shall be constructed to standards specified by the administrative authority or its agent.
5. Site Plan
 - a. A site plan, which shall govern all development, shall be submitted for approval.
 - b. Site plans shall include provisions for:
 - (1) adequate public facilities,
 - (2) development phasing,
 - (3) stormwater management facilities to address the ultimate development coverage within the district,
 - (4) lighting and signing,
 - (5) building placement and lot configuration, and
 - (6) other special site features and land use considerations deemed necessary to serve the district.
 - c. Any site plan application which is not in strict conformance with a pre-existing approved master plan for the district shall require an amendment to that master plan and preliminary plat, if necessary, prior to site plan approval of the specific use.
 - d. All uses shall be subject to final site plan approval.

3-A-10 Business Park (BP)

(6/8/99)
(2/16/01) Intent: The Business Park (BP) District is established to provide locations within the Berryville Area for a broad range of light industrial and business uses. Such uses should be capital intensive (rather than labor intensive), having a significant investment in machinery and tools that should generate maximum revenue for local government. Such uses should promote horizontal and vertical integration of industrial and business activities, so that new businesses enhance and expand the base of existing businesses. All uses shall be in harmony with the cultural and environmental character of the Berryville Area and conform to all federal, state, and local environmental performance standards. Transportation and site planning of all land uses shall have the goal of minimizing traffic congestion.

The application of this district is intended for those locations within the Berryville Area that are planned for Light Industrial/Research uses.

The following list of Permitted Uses, Accessory Uses, Uses allowed by Special Permit, and Prohibited Uses comprehensively addresses every use defined by the North American Industrial Classification System (NAICS) Codes as contained in the NAICS Manual, U.S. Office of Management and Budget, 1997. This Manual shall be used to define the uses listed and assist in the determination of the status of proposed uses. The three, four, or five digit categories listed below include all sub-categories except as noted; for example, 3121 includes 31211, 312111, but does not include 3122.

3-A-10-a Permitted Uses

(5/15/01)

1. Principal Uses and Structures

NAICS Code

- a. 22112 Utilities - Electric Power Transmission, Control, & Distribution
- b. 2212 Natural Gas Distribution
- c. 2213 Water, Sewage, & Other Systems
- d. 233 Building, Developing & General Contracting
- e. 234 Heavy Construction
- f. 235 Special Trade Contractors
- g. 311 Food Manufacturing (except 3116 Animal Slaughtering & Processing and 3117 Seafood Product Preparation & Packaging)
- h. 3121 Beverage Manufacturing
- i. 314 Textile Product Mills
- j. 315 Apparel Manufacturing
- k. 316 Leather and Allied Product Manufacturing (except 3161 Leather & Hide Tanning & Finishing)
- l. 321 Wood Product Manufacturing (except 3211 Sawmills & Wood Preservation)
- m. 3222 Converted Paper Product Manufacturing
- n. 323 Printing & Related Support Activities
- o. 3261 Plastics Product Manufacturing
- p. 332 Fabricated Metal Product Manufacturing (except 3328 Coating/Engrave/Heat Treating & Other Activity and 33292,3,4,5 Small Arms Ammunition, Other Ammunition, Small Arms, and Other Ordnance & Accessories Manufacturing)
- q. 334 Computer & Electronic Product Manufacturing
- r. 335 Electrical Equipment, Appliance, & Component Manufacturing (except 335911 Storage Battery and 335912 Primary Battery)

- Manufacturing)
- s. 337 Furniture and Related Products Manufacturing
- t. 339 Miscellaneous Manufacturing
- u. 421 Wholesale Trade, Durable Goods (except 42152 Coal & Other Mineral & Ore Wholesale)
- v. 422 Wholesale Trade, Nondurable Goods (except 42244 Poultry & Poultry Product Wholesale, 42252 Livestock Wholesale, 4226 Chemical & Allied Products Wholesale and 4227 Petroleum & Petroleum Products Wholesale)
- w. 453998 General Merchandise Auction Houses (within 1000 feet of a state designated primary highway)
- x. 454 Non-store Retailers
- y. 4885 Freight Transportation Arrangement
- z. 488991 Packing & Crating
- aa. 493 Warehousing & Storage
- bb. 511 Publishing Industries
- cc. 512 Motion Picture & Sound Recording Industries
- dd. 513 Broadcasting & Telecommunications
- ee. 514 Information & Data Processing Services
- ff. 5324 Commercial/Industrial Equipment Rental & Leasing
- gg. 5417 Scientific Research and Development Services
- hh. 561 Administrative & Support Services (except 5615 Travel Arrangement & Reservation Services)
- ii. 811 Repair & Maintenance
- 2. Accessory Uses
Uses that are customarily accessory and clearly incidental and subordinate to the principal use:
 - NAICS Code
 - a. 6244 Child Day Care Services
 - b. 7222 Limited Service Eating Places
 - c. 4533 Used Merchandise Store (in a structure existing as of 1 March 2001 that is within 1000 feet of a state designated primary highway and that is accessory to General merchandise Auction House and does not exceed 10% of the total proposed gross floor area of the General Merchandise Auction House, as shown on the project site plan or occupy more than 2,000 square feet of gross floor area.)
- 3. Special Uses and Structures
 - NAICS Code
 - a. 3116 Animal Slaughtering & Processing
 - b. 3117 Seafood Product Preparation & Packaging
 - c. 321114 Wood Preservation
 - d. 3254 Pharmaceutical & Medicine Manufacturing
 - e. 325910 Printing Ink Manufacturing
 - f. 327991 Cut Stone & Stone Product Manufacturing
 - g. 333 Machinery Manufacturing
 - h. 336 Transportation Equipment Manufacturing
 - i. 484 Truck Transportation
 - j. 6215 Medical & Diagnostic Laboratories
 - k. 81233 Linen & Uniform Supply
 - l. 71394 Recreation, Commercial Indoor

(1/20/15)

3-A-10-b

(5/15/01)

Prohibited Uses

Uses not listed above (either as principal, accessory, or special uses) are prohibited, specifically including the following:

NAICS Code

1. **11** Agriculture, Forestry, Fishing, & Hunting
2. **21** Mining
3. **2211** Electric Power Generation
4. **3122** Tobacco Manufacturing
5. **313** Textile Mills
6. **3161** Leather & Hide Tanning & Finishing
7. **3211** Sawmills & Wood Preservation
8. **3221** Pulp, Paper & Paperboard Mills
9. **324** Petroleum & Coal Products Manufacturing
10. **325** Chemical Manufacturing
11. **3262** Rubber Product Manufacturing
12. **327** Nonmetallic Mineral Product Manufacturing (except 327991 Cut Stone & Stone Product Manufacturing)
13. **331** Primary Metal Manufacturing
14. **3328** Coating/Engraving/Heat Treating & Other Activity
15. **33292** Small Arms Ammunition Manufacturing
16. **33293** Ammunition (excluding Small Arms) Manufacturing
17. **33294** Small Arms Manufacturing
18. **33295** Other Ordnance & Accessories Manufacturing
19. **335911** Storage Battery Manufacturing
20. **335912** Primary Battery Manufacturing
21. **42152** Coal & Other Mineral & Ore Wholesale
22. **42244** Poultry & Poultry Product Wholesale
23. **42252** Livestock Wholesale
24. **4226** Chemical and Allied Products Wholesale
25. **4227** Petroleum & Petroleum Products Wholesale
26. **441** Motor Vehicle & Parts Dealers
27. **442** Furniture & Home Furnishings Stores
28. **443** Electronics & Appliance Stores
29. **444** Building Material & Garden Equipment and Supply Dealers
30. **445** Food & Beverage Stores
31. **446** Health & Personal Care Stores
32. **447** Gasoline Stations
33. **448** Clothing & Clothing Accessories Stores
34. **451** Sporting Goods, Hobby, Book & Music Stores
35. **452** General Merchandise Stores
36. **453** Miscellaneous Store Retailers except 4533 Used Merchandise Store in a structure existing as of 1 March 2001 that is within 1000 feet of a state designated primary highway and that is accessory to General Merchandise Auction House and does not exceed 10% of the total proposed gross floor area of the General Merchandise Auction House, as shown on the project site plan or occupy more than 2,000 square feet of gross floor area and 453998 General Merchandise Auction Houses within 1000 feet of a state designated primary highway.

37.	481	Air Transportation
38.	482	Rail Transportation
39.	483	Water Transportation
40.	485	Transit & Ground Passenger Transportation
41.	486	Pipeline Transportation
42.	487	Scenic & Sightseeing Transportation
43.	488	Transportation Support Activities (except 4885 Freight Transportation Arrangement and 488991 Packing & Crating)
44.	491	Postal Service
45.	492	Couriers & Messengers
46.	521	Monetary Authorities - Central Bank
47.	522	Credit Intermediation & Related Activities
48.	523	Security, Commodity Contracts & Like Activity
49.	524	Insurance Carriers & Related Activities
50.	525	Funds, Trusts & Other Financial Vehicles
51.	531	Real Estate
52.	5321	Automotive Equipment Rental & Leasing
53.	5322	Consumer Goods Rental
54.	5323	General Rental Centers
55.	533	Lessors of Other Non-financial Intangible Asset
56.	541	Professional, Scientific & Technical Services
57.	551	Management of Companies & Enterprises
58.	5615	Travel Arrangement & Reservation Services
59.	562	Waste Management & Remediation Services
60.	611	Educational Services
61.	621	Ambulatory Health Care Services
62.	622	Hospitals
63.	623	Nursing & Residential Care Facilities
64.	624	Social Assistance
65.	711	Performing Arts, Spectator Sports & Related Industries
66.	712	Museums, Historical Sites & Like Institutions
67.	713	Amusement, Gambling & Recreation Industries
68.	721	Accommodation
69.	722	Food Services & Drinking Places
70.	812	Personal & Laundry Services
71.	813	Religious, Grant-making, Professional, and Like Organizations
72.	814	Private Households
73.	921	General Government Administration
74.	922	Justice, Public Order & Safety Activities
75.	923	Administration of Human Resource Programs
76.	924	Administration of Environmental Quality Programs
77.	925	Administration of Housing, Urban Planning, Community Development
78.	926	Administration of Economic Programs
79.	927	Space Research & Technology
80.	928	National Security & International Affairs

3-A-10-c

Maximum Density

The maximum floor area ratio shall not exceed 0.35, based on net developable area of lot.

- 3-A-10-d
(1/11/01)
- Lot Size Requirements**
1. Minimum district size: Not regulated
 2. Minimum lot area: 60,000 square feet
 3. Minimum lot width: 100 feet
- 3-A-10-e
- Bulk Regulations**
1. Maximum building height: 40 feet
 2. Minimum yard requirements:
 - a. Front yard: 40 feet
 - b. Side Yard: 25 feet
 - c. Rear Yard: 25 feet
 - d. Side and rear yard requirements may be waived where that side or rear yard abuts a railroad right-of-way.
 - e. Where a lot is contiguous to property located in any zoning district whose permitted uses are not of a business, office, commercial, or industrial nature, all buildings shall have a minimum setback of 60 feet from common property lines.
- 3-A-10-f
- Open Space**
1. An open space plan and landscape design program shall be submitted with applications for any land use governed by this district.
 2. 15% of the site shall be landscaped open space.
- 3-A-10-g
(4/18/00)
(4/20/04)
- Additional Regulations**
1. Parking
 - a. All parking requirements shall be met by off-street, on-site spaces and shall include designated spaces for the handicapped.
 - b. The location, spacing, and number of private driveway entrances shall comply with Virginia Department of Transportation standards and shall be subject to final site plan approval.
 - c. Off-street parking spaces shall be accessed via private driveways and shall not be directly accessed from public rights of way.
 - d. Public streets within or immediately adjacent to the BP zoning district shall be constructed to industrial road standards if determined necessary by the administrative body. Sidewalks may be required on such streets if determined necessary by the administrative body.
 2. Buffering and Landscaping
 - a. Where a parcel in the BP district is contiguous to property located in any residential or institutional district, a landscaped buffer strip of 25 feet in width shall be provided.
 - b. Where a lot is contiguous to property located in any business, office, or commercial district, a landscaped buffer strip of 10 feet in width shall be provided.
 - c. Where a lot is contiguous to property located in any industrial district, a landscaped buffer strip of 5 feet in width shall be provided.
 - d. Landscape materials and placement subject to site plan approval in all landscaped buffer strips.
 3. Storage of Materials and Refuse
 - a. All refuse containers shall be screened by a solid and opaque wall or fence.
 - b. The outdoor area devoted to storage, loading, and display of goods shall be limited to that area so designated on an approved site plan.

- c. All equipment, materials, and fuel storage tanks shall be contained entirely within a building or screened from public rights-of-way and contiguous parcels which are zoned for residential or institutional uses.
- 4. Site Plans and Special Use Permits
 - a. All uses shall be subject to final site plan approval.
 - b. Final site plans shall include a report indicating compliance with any locally adopted performance standards and land use criteria.
 - c. Applications for all uses subject to special use permits shall be accompanied by an environmental impact assessment addressing land use compatibility issues related to locally adopted performance standards.
 - d. Any BP Business Park District land use application which is not in strict conformance with the pre-existing approved master site plan and preliminary plat for the district shall require an amendment to that master site plan and preliminary plat prior to site plan approval of the specific use.
 - e. Site plans for development in BP Business Park Districts shall include provisions for (a) adequate public facilities, (b) development phasing, (c) stormwater management facilities to address the ultimate development coverage within the district, (d) lighting and signing, and (e) other special site features and land use considerations deemed necessary to serve the industrial district.
- 5. Covenants

Common property ownership agreements and covenants for BP Business Park District developments shall be reviewed and approved by the governing body or its agent.
- 6. Noise

Sound levels at the perimeter property line of any parcel in the BP zoning district shall not exceed 65 decibels (dba).

3-A-11 Institutional (ITL)
Intent: The Institutional District (ITL) is created to identify locations for municipal government properties and land uses (both Town, County, State, and/or Federal), semi-public uses, residential uses serving general public purpose, and natural open space resources deemed necessary in providing areas for "passive" and "active" recreational areas within the precincts of the Berryville Area Plan. This district is established to clearly identify these lands and to distinguish them from other areas of the Berryville Area which are held appropriate for private urban land uses. Lands in this designation are primarily intended for governmental agency use and mixed-use (public/private) orientations.

The application of this district is intended for those areas within the Berryville Area which are planned for Institutional Uses.

- 3-A-11-a Permitted Uses
1. Principal Uses and Structures
 - a. Agricultural, horticultural and farming uses.
 - b. Cemeteries
 - c. Day care centers
 - d. Churches and other places of worship
 - e. Clubs or Lodges (including civic and public benefit organizations)
 - f. Funeral Home
 - g. Government and other public buildings (including police, fire, library, museum, and postal facilities)
 - h. Public utilities uses (sub-stations, pump stations, storage tanks, railroad sidings, etc.) and related easements.
 - i. Recreation facilities, indoor or outdoor; parks, playgrounds, fairgrounds
 - j. Schools, public or private
 2. Special Uses and Structures
 - a. Conference centers and retreat houses.
 - b. Hospitals and medical care facilities.
 - c. Housing for low and moderate income households.
 - d. Sports arenas or stadiums as a principal use.

- 3-A-11-b Lot Size, Height and Bulk Requirements
1. When the lot size, height, bulk, and setbacks are not explicitly addressed in the Additional Regulations section below, then non-residential uses shall comply with all the requirements of the Business Commercial BC zoning district for conventional lots, including those for lot size, bulk, density, height and open space. Residential uses shall comply with all requirements of the Attached Residential (AR) zoning district.
 2. All residential buildings shall be located not closer than 100 feet from a railroad right of way.

- 3-A-11-c Open Space
- An open space plan and landscape design program shall be submitted with applications for any land use governed by this district.

Additional Regulations

1. General Regulations
 - a. All uses shall be subject to site plan review.
 - b. Applications for residential uses shall be submitted with copies of deed covenants with prospective purchasers, or conservation easements with the Town and/or County, describing land management practices to be followed by whichever party or parties are responsible for regular maintenance, mowing or gardening.
2. Additional Standards for Child Care Centers and Nursery Schools
 - a. The minimum lot area shall be of such size that 100 square feet of usable outdoor recreation area shall be provided for each child that may use the space at any one time. Such area shall be delineated on a plat submitted at the time the application is filed.
 - b. The usable outdoor recreation area shall be limited to:
 - (1) That area not covered by buildings or required off-street parking spaces.
 - (2) That area outside the limits of the required front yard.
 - (3) Only that area which is developed for active outdoor recreation purposes.
 - (4) An area, which occupies no more than eighty (80) per cent of the combined total areas of the required rear and side yards.
 - c. All such uses shall be located so as to have direct access to an existing or programmed public street of sufficient right-of-way and cross-section width to accommodate pedestrian and vehicular traffic to and from the use as determined by the administrative body. To assist in making this determination, each applicant, at the time of application, shall provide an estimate of the maximum expected trip generation, the distribution of these trips by mode and time of day, and the expected service area of the facility.
 - d. All such uses shall be located so as to permit the pick-up and delivery of all persons on the site.
3. Additional Standards for Public Uses
 - a. For public uses, a certified copy of the law, ordinance, resolution or other official act adopted by the governmental entity proposing the use, authorizing the establishment of the proposed use at the proposed location, shall be provided.
 - b. For public uses, a statement by an official or officer of the governmental body shall be presented giving the exact reasons for selecting the particular site as the location for the proposed facility.
 - c. For public uses, it shall be concluded that the proposed location of the use is necessary for the rendering of efficient governmental services to residents of properties within the Town of Berryville and the County of Clarke.
4. Additional Standards for Public or Private Schools
 - a. 200 square feet of usable outdoor recreation area shall be provided for each child in grades K-3 that may use the space at any one time, and
 - b. 430 square feet of usable outdoor recreation area shall be provided for each child in grades 4-12 that may use the space at any one time.
 - c. Such usable outdoor recreation area shall be delineated on a plat submitted at the time the application is filed.
 - d. For the purpose of these open space provisions, usable outdoor recreation shall be limited to:
 - (1) That area not covered by buildings or required off-street parking spaces.
 - (2) That area outside the limits of the required front yard.
 - (3) Only that area which is developed for active outdoor recreation purposes.
 - (4) An area, which occupies no more than eighty (80) per cent of the combined total areas of the required rear and side yards.

5. Additional Standards for Conference Centers and Retreat Houses
 - a. No building shall be located closer than 50 feet to any street right-of-way line.
 - b. No building shall be located closer than 100 feet to any lot line that abuts a residential district.
6. Additional Standards for Hospitals & Medical Care Facilities
 - a. All applications for medical care facilities shall be filed at the same time as the application for a State Medical Facilities Certificate of Public Need.
 - b. In the governing body's granting of an approval to the applicant, in addition to the information provided by the applicant, the governing body may solicit information and comment from such providers and consumers of health planning organizations, as may seem appropriate, provided that the governing body shall not be bound by any such information or comment.
 - c. No such use shall be located on a lot containing less than five (5) acres.
7. Additional Standards for Housing Low to Moderate Income Households
 - a. Such Housing shall be occupied only by households having an income not greater than 80% of the median household income in Clarke County.
 - b. Such housing may be in the form of Multi-family, Attached single family, or Detached single family.
 - c. All requirements for such housing, including uses, density, lot size, bulk, height, setbacks, and open space, shall be those found in the AR Residential zoning district with the following requirements for Multi-family development:
 - (1) Maximum Density: 12 units per net developable acre.
 - (2) Minimum District Size: 3 acres.
 - (3) Bulk and Open Space Regulations for Multi-family structures:
 - a. Maximum building height: 35 feet
 - b. Minimum yard requirements:
 - i. Front 25 feet
 - ii. Side 25 feet
 - iii. Rear 45 feet
 - c. Minimum building separation between multi-family structures on the same parcel: 25 feet
 - d. Forty percent (40%) of the site shall be open space.
 - d. Such housing for the elderly (62 or older, or handicapped and 55 or older) may include general nursing facilities designed solely for the residents as an accessory use.
 - e. All facilities of the development shall be solely for the use of the residents, employees and invited guests, but not for the general public.

3-A-12 Neighborhood Commercial District (CN)

(6/8/99) Intent: This district is intended for the conduct of business to which the public requires a direct and frequent access, but which is: 1. not located on a primary highway with more than 5,000 trips per day; 2. not characterized by constant heavy trucking other than stocking and delivery of retail goods; 3. not characterized by nuisance factors other than incidental light and noise resulting from the congregation of people and passenger vehicles; and 4. appropriate in scale to the residential character of its context.

3-A-12-a Permitted Uses and Structures

(7/21/92)
(7/15/97)
(10/17/00)
(1/18/05)
(11/18/08)
(2/15/11)
(10/21/14)

1. Principal Uses and Structures
 - a. Cemeteries
 - b. Churches and other places of religious assembly
 - c. Clubs, lodges (private)
 - d. Community centers
 - e. Community Services
 - f. Financial institutions
 - g. Country Inn
 - h. Nurseries, greenhouses (commercial)
 - i. Offices
 - j. Professional services
 - k. Public utility uses and structures, except extensive storage or storage as a primary purpose
 - l. Broadcast Studios
 - m. Restaurants
 - n. Retail and Service Businesses (with a maximum gross floor area of 5,000 square feet for each free-standing business or for each business in a shopping center)
 - o. Volunteer fire and/or rescue squads
2. Accessory Uses and Structures

Uses and structures which are customarily accessory and clearly incidental and subordinate to the permitted principal uses and structures, including, but not limited to:

 - a. Dwelling unit, provided:
 - (1) Such unit is in conjunction with any principal permitted use or structure;
 - (2) Only one such unit per establishment; and
 - (3) Such unit may be occupied only by the owner, manager, watchman, or caretaker of the establishment, and their immediate family
 - b. Enclosed outdoor storage
 - c. Parking areas and loading spaces
 - d. Towers (in combination with any other supporting structures) less than 50 feet high for Telecommunication Antennae
 - e. Wind Turbine, Small (not more than two structures 100 feet in height or less for a small wind turbine generating electrical energy primarily for on-site usage)
3. Special Uses and Structures
 - a. Bowling alleys
 - b. Dance halls
 - c. Farm supplies and sales
 - d. Firearms sales and services
 - e. Gasoline sales
 - f. Garages for storage and repair of motor vehicles when in a completely enclosed structure

- g. Pool rooms, billiard parlors, game arcades
- h. Recreational structures and uses (commercial)
- i. Restaurants with entertainment, nightclubs, taverns, bars
- j. Shops for welding, blacksmith, tinsmith, woodworking
- k. Stone cutting, monument works
- l. Storage of lumber, building supplies, heavy machinery
- m. Theaters, indoor
- n. Undertaking establishments, mortuaries, funeral homes
- o. Veterinary services, animal hospitals, Breeding Kennels
- p. Wind Turbine, Small (three or more structures 100 feet in height or less for a small wind turbine generating electrical energy primarily for on-site usage)
- q. Wind Turbine, Small (structures greater than 100 feet in height for a small wind turbine generating electrical energy primarily for on-site usage)

3-A-12-b Minimum Lot Requirements

- 1. Area: 10,000 square feet
- 2. Frontage: 100 feet

3-A-12-c Yard Requirements

(11/18/03)
(1/18/11)

1. Minimum Yard Requirements

- a. For parcels of any area
 - i. From all property lines of properties zoned AOC, FOC or Rural Residential: 25 feet
 - ii. From intermittent streams: 50 feet
 - iii. From Perennial streams and springs: 100 feet
- b. For parcels larger than 3 acres
 - i. From the edge of any street or right-of-way 50 feet or greater in width: 35 feet
 - ii. From the centerline of any street or right-of-way less than 50 feet in width: 60 feet

2. Maximum Yard Requirements

- a. For parcels of less than 1.5 acres
 - i. From the edge of any street or right-of-way 50 feet or greater in width: 35 feet
 - ii. From the center line of any street or right-of-way less than 50 feet in width: 60 feet
- b. For parcels with frontage on more than one street, the maximum yard requirement shall be applied to only one street or right of way to be determined by the Zoning Administrator based on the following site conditions: access, topography, and the pattern of development on the subject property and adjacent properties.

3-A-12-d
(1/18/11)

Maximum Height of All Structures: 30 feet and two stories (not including basements as defined by the Commercial Building Code), except as otherwise provided

3-A-13 Highway Commercial District (CH)
(6/8/99) Intent: This district is intended to provide sufficient space in appropriate locations for a wide variety of commercial activities, generally serving a wide area and located on primary highways with more than 5,000 trips per day. The uses in this district should not be characterized by extensive warehousing, frequent heavy trucking activity, open storage of materials, or the nuisance factors of dust, odor, and noise associated with light industrial activities.

3-A-13-a Permitted Uses and Structures

- (8/14/95)
(7/15/97)
(5/19/98)
(10/17/00)
(8-21-01)
(11-20-01)
(1/18/05)
(11/18/08)
(2/15/11)
1. Principal Uses and Structures
 - a. Agricultural, horticultural, and forestry uses and structures
 - b. Cemeteries
 - c. Churches and other places of religious assembly
 - d. Clubs, lodges (private)
 - e. Community Services
 - f. Farm machinery sales and service
 - g. Farm supplies and sales
 - h. Financial institutions
 - i. Garages for storage and repair of motor vehicles when in a completely enclosed structure
 - j. Gasoline filling stations for servicing and repair of motor vehicles when in a completely enclosed structure
 - k. Motor vehicles sales, service, and rental
 - l. Motels
 - m. Nurseries, greenhouses (commercial)
 - n. Offices
 - o. Professional services
 - p. Public utility uses and structures, except extensive storage or storage as a primary purpose
 - q. Restaurants
 - r. Retail and Service Businesses (with a maximum gross floor area of 15,000 sq ft for each free-standing business or for each business in a shopping center)
 - s. Theaters, indoor
 - t. Undertaking establishments, mortuaries, funeral homes
 - u. Volunteer fire and/or rescue squads
 - v. Veterinary services, animal hospitals, Commercial Boarding Kennels, Breeding Kennels
 2. Accessory Uses and Structures

Uses and structures which are customarily accessory and clearly incidental and subordinate to the permitted principal uses and structures, including, but not limited to:

 - a. Dwelling unit, provided:
 - (1) Such unit is in conjunction with any principal permitted use or structure;
 - (2) Only one such unit per establishment; and
 - (3) Such unit may be occupied only by the owner, manager, watchman, or caretaker of the establishment, and their immediate family
 - a. Indoor storage
 - b. Parking areas and loading spaces
 - c. Structures (in combination with any other supporting structures) less than 50 feet high for commercial and noncommercial communication antennae

(4) Wind Turbine, Small (not more than two structures 100 feet in height or less for a small wind turbine generating electrical energy primarily for on-site usage)

3. Special Uses and Structures

- a. Bowling alleys
- b. Dance halls
- c. Enclosed outdoor storage
- d. Feed and grain mill
- e. Firearms sales and service
- f. Mini-storage units, and, as an accessory use, -outdoor vehicle storage
- g. Monopoles greater than 50 feet in height for Telecommunication
- h. Antennae
- i. Pool rooms, billiard parlors, game arcades
- j. Recreational structures and uses (commercial)
- k. Restaurants with entertainment, nightclubs, taverns, bars
- l. Retail and Service Businesses (with a gross floor area of more than 15,000 sq ft but less than 50,000 square feet each free-standing business or for each business in a shopping center)
- m. Shops for welding, blacksmith, tinsmith, woodworking
- n. Stone cutting, monument works
- o. Theaters, outdoor
- p. Truck stop (no motor freight terminal)
- q. Warehousing
- r. Wind Turbine, Small (three or more structures 100 feet in height or less for a small wind turbine generating electrical energy primarily for on-site usage)
- s. Wind Turbine, Small (structures greater than 100 feet in height for a small wind turbine generating electrical energy primarily for on-site usage)

3-A-13-b

Minimum Lot Requirements

- 1. Area 20,000 square feet
- 2. Frontage: 100 feet

3-A-13-c

(11-18-03)

Minimum Yard Requirements

From any street or right-of-way 50 feet or greater in width	35 feet
From the center line of any street or right-of-way less than 50 feet in width	60 feet
From all property lines of properties zoned AOC, FOC, or Rural Residential	25 feet
From all property lines of property zoned Highway Commercial	10 feet
From intermittent streams	50 feet
From perennial streams & springs	100 ft.

3-A-13-d

Maximum Lot Coverage by All Impervious Surfaces

85 percent

3-A-13-e

(1/18/11)

Maximum Height of All Structures

40 feet and three stories (not including basements as defined by the Commercial Building Code), except as otherwise provided

3-B APPLICATION OF DISTRICT REGULATIONS

3-B-1 General

Except as hereinafter provided in this Ordinance, the regulations set by this Ordinance within each district shall be minimum or maximum limitations, as appropriate, and shall apply uniformly to each class or kind of structure or land.

3-B-2 Use, Occupancy and Construction

Except as otherwise provided in Section 4-K no building, structure, or land shall be used or occupied, and no building or structure or part thereof shall be constructed except in conformity with all the regulations herein specified for the district in which it is located.

3-B-3 Height, Bulk, Density, Lot Coverage, Yards and Open Spaces

No building or other structure shall hereafter be erected or altered:

- a. To exceed the height or bulk as herein required;
- b. To accommodate or house a greater number of families or to have greater floor area than as herein required;
- c. To occupy a greater percentage of lot area than as herein required;
- d. To have narrower or smaller rear yards, front yards, side yards, or open spaces than as herein required.
- e. To be in any other manner contrary to the provisions of this Ordinance.

3-B-4 Required Yard, Open Space, Area, Parking or Loading Space for One Structure, or Use, Not be Used to Meet Requirements for Another

No part of a yard or other open space, area, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, area, or off-street parking or loading space similarly required for other building.

3-B-5 Reduction of Lots or Areas Below Minimum Prohibited

No lot or area existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Lots or other areas created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

3-B-6 Reduction of Yards Below Minimum

No yard existing at the effective date of this Ordinance shall be, by the construction of a building, reduced in dimension below the minimum requirements set forth herein, unless such yard restrictions reduce the buildable area to unreasonable dimensions. In such cases, the Planning Commission shall determine the minimum requirements consistent with provision of adequate light and air, prevention of loss of life, health, or property from fire or other dangers, and prevention of danger in travel. Yards in lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

3-B-7 Reduction of Required Off-Street Parking or Loading Space

No existing off-street parking or loading space, and no off-street parking or loading space hereafter provided, which meets all or part of the requirements for off-street parking or loading space set forth in these regulations, shall be reduced or eliminated so that resulting reduction results in area not meeting requirements or standards contained herein. Reductions may be permitted where spaces are no longer required by these regulations or alternative spaces meeting the requirements of these regulations are provided.

3-B-8 Exception to Minimum Area and Frontage Regulations for Certain Residences Taxed in 1975 or for which Building Permit Issued Prior to August 13, 1974

Where two or more residences are situated so that a residence or residences cannot be subdivided and separated from the other or others without violating the minimum lot area, then a residence or residences may be subdivided off into separate lots without complying with the minimum lot area and frontage requirements. Residences allowed to be subdivided off and excepted from complying with the minimum lot area and/or frontage requirements as aforesaid shall include only residences taxed by the County in 1975, and/or any residence built now or in the future for which a building permit was issued prior to August 13, 1974 and which permit had been kept valid, current, and unexpired until the completion of the residence. Motel units must comply with the minimum lot area.

3-C SUPPLEMENTARY REGULATIONS

(4/21/92)

(7/20/93)

3-C-1 General

The following regulations are supplementary regulations for districts listed in the Schedule of District Regulations, and are in addition to other provisions and requirements of this Ordinance.

3-C-2 Uses in Various Districts

(10/18/94)

(5/16/95)

3-C-2-a Amusement Parks

Minimum required lot area for an amusement park shall be five acres. Equipment and facilities shall not be located closer than 500 feet to any residential district boundary.

3-C-2-b Bio-Solids Land Application

(01/25/00)

1. For review and fee purposes, a proposal to apply Bio-Solids shall be considered a site plan subject to administrative approval by the Zoning Administrator.
2. The following information shall be submitted to the Zoning Administrator when seeking administrative site plan approval for Bio-Solids Land Application:
 - a. The name, telephone number, and address of the applicant;
 - b. A brief description of the applicant's business;
 - c. Tax map parcel number and the number of acres of the property on which the Bio-Solids are to be applied;
 - d. Complete copies of application and other related materials required by the state permitting authority to be submitted to the County at the time of state submission;
 - e. A statement signed by the property owner(s) authorizing representatives of Clarke County access anywhere on the owner's land for the purpose of inspecting the Land Application process and the right to sample Bio-Solids when desired;
 - f. Proof of liability insurance in the aggregate amount of \$1,000,000.00;
 - g. A Nutrient Management Plan for the subject property prepared by an individual certified by the Commonwealth of Virginia as a Certified Nutrient Management Planner, who meets the standards and criteria contained in the Virginia Nutrient Management Training & Certification Regulations. Plans must be no more than three years old;
 - h. The source of the biosolids, including the name, address, and telephone number with a contact person of the source, within 48 hours of application.
3. Bio-Solids Land Application shall be conducted in accord with the following standards:
 - a. Bio-solids shall not be applied in areas with a slope exceeding 15% or where bedrock is shallow or the water table is high.
 - (1) Depth to Bedrock: Biosolids may not be applied to soil types with a depth to bedrock of less than 30 inches as identified in Table 16 of the Soil Survey of Clarke County, Virginia (USDA, 1982). These include the following soil types: 1B, 1C, 5B, 5C, 7D, 8D, 9D, 12D, 12E, 13D, 13E, 14C, 15B, 15C, 17B, 28B, 28C, 29C, 32B, 41C, 42C, 43C, 58D.
 - (2) Depth to High Water Table: Biosolids may not be applied to soil types with a depth to high water table of less than 30 inches as identified in Table 16 of the Soil Survey of Clarke County, Virginia (USDA, 1982). These include the following soil types: 1B, 1C, 24, 25B, 26B, 26C, 27B, 30B, 56.

- b. If an applicator believes the Soil Survey is inaccurate, the applicator shall demonstrate to the Zoning Administrator that a minimum depth of 30 inches to bedrock or ground water exists. Demonstrating adequate depth shall be determined by auger borings. Auger borings shall be collected in the following manner:
- (1) To determine depth of bedrock, there shall be at least one boring for each soil type in question with a minimum of one boring per 10,000 square feet.
 - (2) To determine depth to high water table there shall be at least one boring for each soil type in question with a minimum of one boring per 10,000 square feet. Borings shall be placed in the lowest areas of the soil type. Borings shall be exactly 30 inches deep. Groundwater may be assumed to be within two feet of the soil surface if any water appears in the bottom of the hole after 30 minutes (one hour if the soil is "heavy textured", i.e., high in clay content).
 - (3) Bio-Solids shall not be applied within the EPA designated Sole Source Aquifer of Prospect Hill Spring. This encompasses the surface water drainage area of Page Brook, and the Spring Protection Overlay District.
 - (4) In addition to the setback requirements established by the Virginia Department of Health, as listed in items one through six below, the additional setbacks, listed in items seven through seventeen below, shall be complied with:
 - a. occupied dwellings 200 feet
(unless waived in writing by the owner and occupant of the dwelling)
 - b. property line 100 feet
(unless waived in writing by the owner of the adjacent property)
 - c. public rights of way 10 feet
 - d. rock outcrop 25 feet
 - e. agricultural drainage ditches with slopes < 2% 10 feet
 - f. private wells 100 feet
 - g. Intermittent Streams or drainage swales 50 feet
 - h. Perennial Streams 100 feet
 - i. Parcels containing public water sources (including wells, springs, or surface water intakes) 1000 feet
 - j. Shenandoah River flood plain 100 year
 - k. Sinkholes (sinkholes as defined in the Clarke Co. Soil Survey) 100 feet
 - l. Springs-perennial

-above spring	500 feet
-below spring	200 feet
 - m. incorporated town limits 1000 feet
 - n. the Berryville Annexation Area 1000 feet
 - o. residential zoning district 1000 feet
 - p. parcels containing public or private schools, authorized by the Commonwealth of Virginia, providing instruction at any grade(s) from K through 12, with at least 50 students 1000 feet
 - q. other human created, animal created, or natural features that could allow bio-solids to migrate to surface water or ground water to be identified by the applicator and the Zoning Administrator (including but not limited to perc. holes, old foundations, pulled up trees, animal holes on slopes, etc.) 100 feet

- (5) Land proposed for Bio-Solids Land Application shall be inspected before and during the application of Bio-Solids by a permanent committee. The committee shall consist of the Zoning Administrator, the County Natural Resources Planner, the local Extension Agent, the local Soil Conservationist, one person from the Planning Commission's Agriculture Committee, and two persons appointed by the Board of Supervisors.
- (6) The requirements of the Stream Protection Overlay District that pertain to retention of existing vegetation shall also apply to setback areas adjacent to perennial springs and sinkholes.
- (7) The property proposed for bio-solids application is in the Clarke County Agricultural District or the owner of said property has requested, in writing, the inclusion of the property in the Clarke County Agricultural District;
- (8) The bio-solids applicator shall notify the Clarke County Zoning Administrator in writing of its intent to begin land application on an approved site at least 48 hours before such application. The notice shall include:
 - a. a field map of the lands to which the biosolids will be applied;
 - b. how long the process is estimated to continue, and
 - c. when the application will terminate.

If circumstances cause the commencement of land application to take place more than five days after the date indicated, the Zoning administrator shall be so notified promptly in writing.

- (9) The Zoning Administrator reserves the right to conduct random sampling of biosolids material. Bio-solid sample analysis shall include as a minimum: percent solids, pH, the dry weight concentration of total Kjeldahl nitrogen, ammonium nitrogen, nitrate nitrogen, total phosphorous, total potassium, cadmium, copper, mercury, nickel, lead, and zinc. The Zoning Administrator may require analysis of other bio-solids constituents if necessary to adequately assess the potential public health and environmental impacts of the application. The samples shall be collected by a County representative and analyzed by a State Certified Testing Laboratory at the expense of the applicator.

4. Suspension of Applicator Operation

- a. If the Zoning Administrator determines that a bio-solids applicator has not complied with the provisions of Federal, State, or local regulations or ordinances, the Zoning Administrator shall issue the applicator a Notice of Suspension from continued operation within Clarke County for a six-month period. This Notice shall be sent by certified mail to the last known address of the applicator. Following the expiration of the suspension, the applicator shall meet with the Zoning Administrator and review the improvements to their operations. If the Administrator concludes that the applicator will operate in a manner consistent with all regulations or ordinances, the Administrator shall issue the applicator a Notice of Resumption of their operations within Clarke County. Any subsequent suspension of the same applicator shall be for a period of time set by the Board of Septic and Well Appeals.
- b. An applicator may appeal a Notice of Suspension to the Clarke County Board of Septic & Well Appeals. Such appeal shall be filed with the clerk of the board in writing within 30-days of the action of the Zoning Administrator. The appeal shall include scientific data demonstrating the applicator's compliance with all regulatory requirements. An owner of property adjacent to a bio-solids application site may appeal a Notice of Resumption to the Board of Septic & Well Appeals. Such appeal shall be filed with the clerk of the board in writing within 30-days of the action of the Zoning Administrator. The appeal shall cite reasons why the

subject applicator should not be allowed to resume bio-solids applications.

- 3-C-2-c
(8/19/08) **Camps, Summer:**
Applicants for such uses shall demonstrate that all applicable regulations of the Department of Health and Commonwealth of Virginia (Specifically including Title 35, Code of Virginia), have been met. No such activity shall be permitted on a parcel of land less than three acres.
- 3-C-2-d **Cemeteries:**
No grave, mausoleum, or other interment site shall be located nearer than 100 feet to a potable water supply source. Fee simple ownership of land used for interment of bodies shall be required. The section of a proposed location set aside for interment shall be free of all financial encumbrances, and after approval of a proposed location, it shall be unlawful to encumber any section thereof in which interments have been made or which is set aside for interments.
- 3-C-2-e **Circuses, Carnivals, and Similar Temporary Activities:**
Proposed sites for such activities shall have direct access to a major street or highway, be of a size and shape appropriate for the proposed use, and be dimensioned or located in such a way as to provide spatial or other buffering to protect adjacent development from potentially adverse effects. The plan shall provide for safe and convenient parking, circulation, and ingress/egress to adjacent streets and highways.
- 3-C-2-f **Club or Lodge (Private):**
No such activity shall be permitted on a parcel of land less than three acres.
- 3-C-2-g
(9/18/90)
(6/15/04)
(1/16/07)
(1/18/11) **Country Inn:**
 1. An establishment offering, for compensation to the public, not more than 15 guest rooms for transitory lodging or sleeping accommodations of not more than 14 days of continuous occupancy.
 2. As accessory uses to a Country Inn, meal service and/or permanent places(s) of public assembly may be provided. The total maximum capacity of areas used for meal service and/or permanent places of public assembly shall be 149 people and as regulated by the Virginia Department of Health.
 3. One bathroom shall be provided per each bedroom in structures less than 50 years old or one bathroom shall be provided per each two bedrooms in structures 50 years or older.
 4. Any need for parking shall be met off the street and other than in a required front yard, and shall conform in all other ways with the provisions of Section 4-J of this Ordinance;
 5. No equipment, process, or vehicles which create unreasonable noise, vibration, glare, fumes or odors which are detectable to the normal sense off the premises shall be permitted;
 6. The structure satisfies all applicable requirements of the Commonwealth of Virginia and the local Health Official;
 7. All applicants for a country inn in an AOC zoning district shall accept the fact that adjoining agricultural land, due to fertilizing, manure spreading, lime spreading, feedlots, and other farming methods may produce offensive odors.
 8. In the AOC or FOC Zoning Districts, a country inn shall be allowed only as an accessory use to a Single Family Detached Dwelling. Guestrooms shall be located in or attached to such a dwelling. For parcels larger than 20 acres, the Single Family Detached Dwelling may be the principal dwelling on the property and/or a tenant

- house. The defined accessory uses of meal service and/or permanent place(s) of public assembly shall be located in or attached to such a Single Family Dwelling.
9. Events, as defined by Clarke County Code Chapter 57, shall obtain all necessary approvals.

3-C-2-h

(10/19/04)

(4/18/06)

(10/18/11)

Dwellings of less than 600 square feet of Living Space:

One such dwelling, occupied by not more than two people, is allowed on parcels of six acres or more. Such dwellings shall be on the same parcel as a Single-Family Detached Dwelling Unit with more than 600 square feet of Living Space. For parcels not under permanent conservation easement, such dwellings shall be located within 300 feet of a Single-Family Detached Dwelling Unit with more than 600 square feet of Living Space. Living Space is space within a dwelling utilized for living, sleeping, eating, cooking, bathing, washing and sanitation purposes.

3-C-2-i

(16 May 06, adopted)

(16 Nov 06 effective)

Dwellings, Single Family:

The number of persons, who are permanent full-time residents occupying a single-family dwelling served by an on-site sewage disposal system with a Virginia Department of Health Permit, shall not exceed two for the number of bedrooms allowed by that permit.

1. If it is found that a property is not in compliance with this requirement, then the owner of the property shall apply for a permit with the Health Department, to expand the current disposal system for a sufficient number of bedrooms to accommodate the number of permanent full-time resident occupants in the dwelling.
2. If the Health Department denies the expansion, the owner of the property shall apply for variance from Board of Septic and Well Appeals for a system designed for a sufficient number of bedrooms to accommodate the number of permanent full-time resident occupants in the dwelling and install such a system if approved. Such a variance can only be requested for owner occupied property.

3-C-2-j

(2/15/94)

(11/17/95)

(3/16/99)

Extraction of Natural Resources: Limited:

Intent - It is intended that the public interest be protected by regulations assuring that both present and future results of such removal do not create effects adverse to the public health, safety, comfort or convenience or significantly damaging to the value of surrounding property.

1. General Requirements

- a. Public Hazards and Improvements: Operations as proposed at the location shall not create unusual traffic hazards or the need for special public improvements or special public maintenance of public streets, bridges, drainage or flood control works or any other facilities, nor need for special protection, repair or maintenance of adjacent private property; provided, however, that the applicant may, by agreement and with sureties in form and amount approved by the County, assume the costs created.
- b. Size: The site shall be of sufficient size and dimensions to accommodate proposed operations in accordance with the criteria for Special Use Permits set forth in Section 5, with measurements made at site boundaries; provided, however, that upon written agreement by adjoining property owners, the points of measurement may be extended to include their property.
- c. Location: Location shall be appropriate to existing or proposed development during the exploitation phase. The site shall be so located with respect to roads as

to make it unnecessary to conduct trucking operations through residentially zoned areas while products are being removed.

- d. Time Limits: In addition to limitations established by conditions placed on the Special Use Permit, blasting operations shall be restricted to Mondays through Fridays between 8:00 a.m. and 5:00 p.m. In addition, the Special Use Permit conditions may set a time limit on the exploitation phase(s).
- e. Care of Land: Creation of undrained pockets and stagnant pools shall be avoided to the maximum extent reasonably practicable and all such undrained pockets and stagnant pools resulting from surface drainage shall be sprayed in accordance with requirements of the County Health Department to eliminate breeding places for mosquitoes and other insects.
- f. Off-Street Parking: Off-street parking areas adequate for all employees' vehicles and trucks shall be provided.

(1) Required Site Plan Elements

- a. The Site Plan shall show the proposed extraction activities as planned and staged, in relation to surrounding property within 300 feet, or such greater distance as may be required by the Planning Commission as appropriate in the particular case, and shall include topographic surveys indicating present conditions (including drainage) and the conditions (including topography, drainage and soils) to be left at the end of the exploitation phase. Contour intervals for topography shall be five feet in areas where general slope is greater than 10 percent, two feet in areas where general slope is 10 percent or less
- b. The Site Plan shall show that the extraction activities will not cause hazards or damage to other properties by reason of increased flooding or undesirable rise or reduction in ground water levels, erosion caused by increased rate of flow or redirection of flow in flood channels, deposits of debris from flood or erosion, excessive slopes remaining at cuts or fills, or undermining or creation of settlement in adjoining areas. This plan shall also show important locational aspects of the stages of exploitation, where and how traffic on and from the development will be handled, where equipment will be operating, the location and dimension of structures, the manner in which appropriate safeguards will be provided, including, without limitation, those for preventing access by children and other unauthorized persons to dangerous areas. The Site Plan shall indicate how the project is to be finished in accordance with the plan for reuse.
- c. The Site Plan shall show feasible circulation patterns in and around the site, the treatment of exposed soil or subsoil (including measures to be taken to replace topsoil and/or establish vegetation in excavated areas) in order to make the property suitable for the proposed reuse, treatment of slopes to prevent erosion and delineation of floodways and flood plans (if any) to be maintained in open usage. In such plans for reuse, where conditions are suitable, permanent lakes may be permitted, but intermittent lakes and marshes shall not be allowed except within flood plain areas.
- d. The Site Plan shall show the property, in its entirety, returned to a state suitable for reuse for purposes permissible in the district, relating such reuses to uses existing or probable for surrounding property.

- (2) Asphalt production facilities are allowed as an accessory use to a stone quarry.

3-C-2-k

(8/16/94)

(6/21/05)

Forestry Uses and Structures:

The cutting or logging of any trees for profit that exceeds one acre of harvested area, shall not be conducted without a Pre-Harvest Plan, which shall include Virginia Department of Forestry Best Management Practices, that is reviewed by the County Zoning Administrator and a consulting forester or certified arborist for compliance with County ordinance. The Pre-Harvest Plan shall be submitted to the Zoning Administrator at least 10 business days before the start of a harvest operation.

1. Intent

The standards for the Pre-Harvest Plan are Best Management Practices (BMPs) specifically established to reduce logging costs, reduce erosion, and prevent water quality problems.

2. Pre-Harvest Plan

a. The Pre-Harvest Plan shall include a map identifying:

- (1) property boundaries,
- (2) streams and drainages,
- (3) vegetated buffers as described in Section 3-A-2-f,
- (4) road and trail locations,
- (5) stream and drainage crossings,
- (6) log landings, and mill seats,
- (7) streamside Management Zones (SMZs), and
- (8) other environmental concerns,

b. As appropriate, written notes shall address:

- (1) road and trail specifications,
- (2) harvesting equipment to be used,
- (3) timing of harvest,
- (4) logging contract specifications,
- (5) special Planning for wet areas,
- (6) obstructions such as rock outcroppings, and
- (7) when and where BMPs will be installed.

3. The guidelines in the “Virginia’s Forestry Best Management Practices for Water Quality, BMP Field Guide” July 2002 (and as amended) shall be the minimum standards and criteria for the Pre-Harvest Plan and shall be understood and applied as the minimum requirements for:

- a. haul roads
- b. skid trails
- c. haul Road and Skid Trail Drainage
- d. log decks, Landings, and Mill Seats
- e. stream side management zone (SMZ); however, in no instance shall a SMZ be less than 100 feet for a perennial stream or 50 feet for an intermittent stream as identified on the 7.5 USGS topographic maps,
- f. buffer area as described in section 3-C-2-k-(6),
- g. clear cuts for forest regeneration and wildlife habitat should be laid out with an undulating perimeter instead of squares or rectangles. This is to increase the “edge” effect between adjacent forested areas so vital to wildlife, and to help them blend into the surrounding forest, and
- h. seeding bare soil.

4. No subdivision application accepted for three years before or after a timber harvest operation.

5. No Pre-Harvest Plan would be accepted for a property within three years of approved subdivision.
6. A buffer shall be maintained, for commercial forestry activities with a Pre-Harvest Plan, of 25 feet along public rights of way and 25 feet along property lines, allowing for the thinning of trees not to exceed 50% of the crown cover (50% crown cover retained at all times).
 - a. no skid trails shall be located within buffer areas,
 - b. tree removal in buffers shall be with directional felling and winching,
 - c. within this managed area up to 50% of the basal area or up to 50% of the forest canopy can be harvested,
 - d. salvage shall be conducted in accord with recommendations outlined in the BMP manual,
 - e. removal of harvested timber in the buffer shall be done so that the forest floor remains virtually undisturbed. If disturbance does occur, a permanent vegetative cover shall be established on exposed soil within the buffer area,
 - f. equipment shall not be operated in or adjacent to the buffer area for salvage and sanitation purposes when soils are saturated, and
 - g. areas of damage of less than 1 acre may be completely harvested.
7. Revegetation, as described in Section 3-A-2-f(7), shall be required for all areas where any clearing occurs in excess of the standards for required vegetative buffers.

3-C-2-l Gasoline Pump Canopies: Canopies covering gasoline pumps shall not exceed a height of 18 feet, 6 inches.
(10/18/11)

3-C-2-m Health Care Structure, Temporary Family
(11/16/10)

1. A Temporary Family Health Care Structure shall be (i) for use by a caregiver in providing care for a mentally or physically impaired person and (ii) on property owned or occupied by the caregiver as his residence as a permitted accessory use. Such a structure shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure. Only one family health care structure shall be allowed on a lot or parcel of land.
2. For purposes of this section:
 - a. "Caregiver" means an adult who provides care for a mentally or physically impaired person within the Commonwealth. A caregiver shall be either related by blood, marriage, or adoption to or the legally appointed guardian of the mentally or physically impaired person for whom he is caring.
 - b. "Mentally or physically impaired person" means a person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in Virginia Code § 63.2-2200, as certified in a writing provided by a physician licensed by the Commonwealth.
 - c. "Temporary family health care structure" means a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the Industrialized Building Safety Law (§ 36-70 et seq.) and the Uniform Statewide Building Code (§ 36-97 et seq.). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.
2. Any person proposing to install a temporary family health care structure shall first

obtain a Zoning Permit. To obtain Zoning Permit approval, the applicant shall provide sufficient proof of compliance with this section. The applicant shall provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. Such evidence may involve the inspection by the locality of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation.

3. Any temporary family health care structure installed pursuant to this section may be required to connect to any water, sewer, and electric utilities that are serving the primary residence on the property and shall comply with all applicable requirements of the Virginia Department of Health.
4. No signage advertising or otherwise promoting the existence of the structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.
5. Any temporary family health care structure installed pursuant to this section shall be removed within 30 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section.
6. The Zoning Administrator may revoke the permit granted pursuant to subsection C if the permit holder violates any provision of this section. Additionally, the Board of Supervisors may seek injunctive relief or other appropriate actions or proceedings in Circuit Court to ensure compliance with this section. The Zoning Administrator is vested with all necessary authority to ensure compliance with this section.

3-C-2-n

(5/20/86)

(7/15/97)

(6/15/04)

(10/17/06)

(8/17/10)

Home Occupations

1. A Home Occupation must be conducted by the residents of the dwelling. In addition, such residents must be the holder of the Business License for the occupation.
2. A Home Occupation Permit, signed by the residents of the dwelling (and the owner of the dwelling, if different), must be approved by the Zoning Administrator. In addition, home occupations shall have all permits and licenses as needed from the Clarke County Board of Supervisors, Clarke County Building Department, the Virginia Department of Health, and any other appropriate federal and state agency.
3. No more than one person, other than members of the family residing on the premises of less than six acres, shall be employed by such occupation and working on the premises on a regular basis. There shall not be more than two such persons on premises of six acres or more;
4. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants;
5. No more than 25 percent of the floor area of the dwelling unit, or not more than 25 percent of said floor area if the home occupation is conducted in an accessory building, shall be used in the conduct of the home occupation;
6. A bed and breakfast may use a maximum of three guestrooms for the conduct of the home occupation, regardless of the floor area of the dwelling unit. As an accessory use to a bed & breakfast, breakfast meal service may be provided only for overnight guests.
7. The number of clients, guests, or students (not residing in the home) of any occupation involving public assembly (either in a permanent or temporary structure, or out of doors) shall not exceed six people on parcels in the Rural Residential Zoning District, twelve people on parcels of less than 6 acres in the AOC or FOC Zoning Districts, or twenty-four people on parcels of 6 acres or more in the AOC or FOC Zoning Districts. Public assembly events, on parcels in the Rural Residential Zoning District, of more than three such persons or, on parcels in the AOC or FOC

- Zoning Districts, of more than six such persons, shall not occur on more than two days a month. The maximum number of people allowed shall be counted at any one point of time;
8. There shall be no change in the outside appearance of the building or premises, nor other visible evidence of the conduct of such home occupation;
 9. Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard;
 10. No equipment or process shall be used in such home occupation that creates electrical interference, fumes, glare, noise, odors, or vibration, detectable to the normal senses off the lot, if the occupation is conducted in a single family residence, or outside the dwelling unit, if the occupation is conducted in other than a single family residence. In the case of electrical interference, no equipment or process shall be used that creates audible or visual interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises;
 11. Use and storage of equipment and storage of vehicles
 - a. On parcels of less than 6 acres:
 - (1) The use and storage of all equipment and the storage of vehicles, taxed by the Commissioner of the Revenue as Machinery and Tools, shall occur within a totally enclosed structure.
 - (2) The area of such structure shall be included in the 25% limit established in section 3-C-2-n-5 above.
 - b. On parcels of 6 acres or more:
 - (1) The use and storage of all equipment and the storage of vehicles, taxed by the Commissioner of the Revenue as Machinery and Tools, if not in an enclosed structure, shall be shielded from view from adjacent parcels, public rights of way, and private access easements by solid fencing, evergreen trees, and/or topographic features.
 - (2) The area, not in an enclosed structure, used for the storage of such vehicles (described in section 10-B-1, above) shall not be included in the 25% limit established in section 3-C-2-n-5 above.
 - c. On parcels in the Rural Residential Zoning District:
 - (1) The storage of licensed business vehicles shall be limited to one motorized vehicle and one utility trailer (length less than 20 feet).
 - (2) No vehicles identified by the Clarke County Commissioner of the Revenue as Commercial/Industrial vehicles or vehicular Business Equipment (bull-dozers, back-hoes, etc.) shall be stored.
 - (3) The area used for the storage of licensed business vehicles shall not be included in the 25% limit established in section 3-C-2-n-5 above.
 - d. On parcels of less than 6 acres in the AOC or FOC Zoning Districts:
 - (1) The storage of licensed business vehicles shall be limited to one motorized vehicle and one utility trailer (length less than 20 feet).
 - (2) The storage of vehicles identified by the Clarke County Commissioner of the Revenue as Commercial/Industrial shall be limited to one such vehicle. The storage of Industrial trailers (20 feet or longer) shall be limited to one such vehicle. The storage of vehicular Business Equipment (bull-dozers, back-hoes, etc.) shall be limited to one such vehicle. All such Commercial/Industrial vehicles, Industrial trailers, and vehicular Business Equipment shall be shielded from view from adjacent parcels, public rights of way, and private access easements by solid fencing, evergreen trees, and/or topographic features.
 - (3) The area used for the storage of licensed business vehicles and

Commercial/Industrial vehicles shall not be included in the 25% limit established in section 3-C-2-n-5 above.

- e. On parcels of 6 acres or more in the AOC or FOC Zoning Districts:
 - (1) The storage of licensed business vehicles shall be limited to three motorized vehicles and three utility trailers (length less than 20 feet). Any combination of three or more such vehicles and/or trailers stored on the property shall be shielded from view from adjacent parcels, public rights of way, and private access easements by solid fencing, evergreen trees, or topographic features.
 - (2) The storage of vehicles identified by the Clarke County Commissioner of the Revenue as Commercial/Industrial shall be limited to three such vehicles. The storage of Industrial trailers (20 feet or longer) shall be limited to three such vehicles. The storage of vehicular Business Equipment (bull-dozers, back-hoes, etc.) shall be limited to three such vehicles. All such Commercial/ Industrial vehicles, Industrial trailers, and vehicular Business Equipment shall be shielded from view from adjacent parcels, public rights of way, and private access easements by solid fencing, evergreen trees, and/or topographic features.
 - (3) The area used for the storage of licensed business vehicles and Commercial/ Industrial vehicles shall not be included in the 25% limit established in section 3-C-2-n-5 above.

12. The limits described in this section shall not be exceeded regardless of whether there is one or multiple home occupations conducted in the residence; and

13. The following uses are not allowed as home occupations:

- (1) Assisted living facilities for three or fewer adults,
- (2) boarding and rooming houses, tourist homes, private educational institutions,
- (3) private educational institutions, and
- (4) vehicle repair or vehicle towing.

14. A Breeding Kennel is allowed as a Home Occupation in the AOC and FOC Zoning Districts when such facility houses 10 or fewer canine animals older than 6 months. Kennels housing five to 10 animals older than 6 months shall be setback 175 feet from property lines.

15. Commercial Boarding Kennel is allowed as a Home Occupation in the AOC and FOC Zoning Districts when such facility houses less than five canine and/or feline animals older than six months.

3-C-2-o

Hospitals:

Minimum required lot area for a hospital shall be two acres.

3-C-2-p

Hotels:

Minimum lot area required for a hotel shall be 2,000 square feet per unit exclusive of proprietor's dwelling, office and accessory building.

3-C-2-q

(05/16/95)

(8/22/00)

Intensive Livestock, Dairy, or Poultry Facility

1. Minimum Setbacks:

- a. The setback for intensive livestock, dairy, and poultry structures shall be at least 3,000 feet for swine and 1,000 feet for all other animals from:
 - (1) incorporated town limits;
 - (2) the Berryville Annexation Area;
 - (3) residential zoning districts;
 - (4) parcels containing public or private schools, authorized by the Commonwealth of Virginia, providing instruction at any grade(s) from K

- through 12, with at least 50 students;
 - (5) parcels containing public water sources (including wells, springs, or surface water intakes).
 - b. The setback for intensive livestock, dairy, poultry structures shall be at least 1,000 feet for swine and 300 feet for all other animals from property lines and public rights-of-way.
 - c. The setback for intensive livestock, dairy, poultry structures shall be at least 100 feet from perennial streams, perennial springs, private wells, sinkholes, and 50 feet from intermittent streams (streams and springs as identified by U.S. Geological Survey). Existing healthy trees, with a diameter of at least six inches, in the perennial spring and sinkhole setback areas shall not be removed.
 - d. The setbacks for intensive livestock, dairy, poultry structures shall be applied to all new free-standing structures. The setbacks for intensive livestock, dairy, poultry structures shall be applied to additions to existing structures if these existing structures were designed for fewer than 50 Animal Units (as determined by the County Extension Agent based on Best Management Practices) or if they housed a livestock species different from that proposed in the intensive facility. The setbacks for intensive livestock, dairy, poultry structures for additions to existing structures that were designed for more than 50 Animal Units may be less than as specified in Sections 3-C-2-r-(1)-(a), (b), and (c) above, but shall be not less than the setback of the existing structures or 50 feet, whichever is less.
2. Nutrient Management Plan
- a. No intensive facility shall commence operation until a nutrient management plan for the proposed facility has been reviewed and approved by the Virginia Department of Conservation and Recreation.
 - b. The nutrient management plan shall be reviewed and updated every three years by an agent of the Virginia Department of Conservation and Recreation.
3. Development Plan
- Before any permanent structure for an intensive livestock operation is constructed, the owner of such facility shall file with the Zoning Administrator a Development Plan. If such a Development Plan shows or includes the following, a Zoning Permit shall be issued:
- a. the number, size, and location of livestock, dairy, or poultry structures, and number of associated animals planned for the subject parcel;
 - b. a surveyed plat showing all required setbacks verifying the accuracy of the distances shown in the development plan and any area within the Stream Protection Overlay District;
 - c. a copy of the approved Nutrient Management Plan for the intensive facility and any subsequent revisions;
 - d. documentation showing that the property containing the intensive facility is not located within the Prospect Hill Spring surface water recharge area as described in the U.S. E.P.A. Sole Source Aquifer designation; and
 - e. a written statement, sworn to and subscribed before a notary public, by which the owner certifies to the zoning administrator that the intensive facility shown in the development plan meets all applicable requirements of this ordinance.

3-C-2-r
(11/15/05)

Livestock/Animal Units Limits (Residential)

- 1. no livestock on any parcel of less than 1 acre;
- 2. a maximum of .5 animal units for any parcel of 1 acre to 1.999 acres;
- 3. no livestock limits for parcels of 2 acres or more;
- 4. no livestock limits for 4H/Future Farmer of America preparation animals; and

5. no limits on poultry.

3-C-2-s
(6/19/92)

Manufactured Homes (Mobile Homes):

Manufactured homes, permitted in the AOC and FOC zoning districts only, shall be 19 or more feet in width, on a permanent foundation with transportation tongue and axles removed, and subject to all other zoning standards applicable to conventional, site-built single family dwellings within the AOC and FOC districts. Skirting requirements and other applicable manufactured housing regulations of the Virginia Uniform Statewide Building Code shall be met.

3-C-2-t
(5/19/98)

Mini-storage units and, as a accessory use, outdoor vehicle storage:

Not more than one outdoor vehicle storage space for each 750 square feet of indoor storage area for vehicles and trailers in operating condition, fully assembled, and displaying appropriate and current county license, state plates, and inspection sticker.

3-C-2-u
(7/15/97)
(4/18/00)
(8/21/01)
(11/20/01)
(11/18/03)
(7/21/15)

Monopoles for Telecommunication Antennae:

1. A site plan, in accord with Section 6 of this ordinance, shall be submitted for Monopoles for Telecommunication Antennae (note: Section 6-H-12, Standards for Monopoles for Telecommunication Antennae, contains additional specific regulations). A monopole is a self-supporting single shaft structure. It does not have guy wires and is not a lattice tower with multiple legs and cross-bracing structure.
2. Verifiable evidence shall be provided in writing showing the lack of antenna space on existing towers, buildings, or other structures suitable for antenna location, or evidence of the unsuitability of existing tower locations for co-location.
3. Compliance with all Federal Aviation Administration and Federal Communication Commission requirements, including review by the Virginia Department of Historic Resources of properties eligible for listing and listed on the National Register of Historic Places in accord with Section 106 procedures, shall be demonstrated in writing.
4. Height
 - a. A monopole shall be the minimum height necessary to provide adequate service, based on the best available technology, and environmental and topographical constraints. However, in no instance shall the maximum height of a monopole exceed 100 feet with the exception of co-location of antennas in accordance with Federal law as set forth in Subsection 7 below;
 - b. In addition, a monopole and its attachments shall not be more than 15 feet taller than the average height of the tree canopy within 100 feet of the perimeter of the area to be cleared for the monopole (see Section 6-H-12);
 - c. The height of the monopole shall be reduced if the average height of trees within 100 feet of the perimeter of the area to be cleared for the monopole is reduced as a result of natural or man-made circumstances; and
 - d. Determination of monopole height shall include any attachments to the monopole.
5. A monopole shall not trigger a requirement, public or private, that it be lighted nor shall it be lighted on a voluntary basis.
6. The owner of the monopole shall dismantle the monopole and all associated structures, if no functioning privately owned telecommunication antenna is attached to the monopole for 12 consecutive months, and restore the site as nearly as possible to preexisting site conditions. A bond must be posted at the time of monopole approval, in the event the County must remove the monopole upon abandonment. This bond shall be equal to the cost to remove the monopole, all monopole and fence

footers, underground cables, and support buildings, plus 25% for surety. The bond shall be renewed every five years for the life of the monopole.

7. Notwithstanding any provision of this Ordinance related to special use permit requirements and procedures on any specific special use condition placed on an approved monopole, the Zoning Administrator shall administratively approve an amendment to the previously approved site development plan for a monopole to allow collocation, removal, or replacement of transmission equipment, as required by Federal law, that meets all of the following standards:
 - a. The collocation, removal, or replacement of equipment does not result in the monopole failing to meet the requirements of §6-H-12-b and §6-H-12-e of this Ordinance.
 - b. Installation of the proposed equipment does not increase the height of the monopole by more than 10% of the original approved height or by the height needed to provide 20 feet of separation from the closest antenna array location on the monopole, whichever is greater, except that the mounting of the proposed equipment may exceed these limits if necessary to avoid interference with equipment existing on the monopole. For any request to exceed height limits to avoid interference with existing equipment on the monopole, the applicant shall provide a report by a licensed engineer to justify the request. Such report shall be evaluated by the County's engineering consultant and the applicant shall be responsible for reimbursing the county for all costs associated with the consultant's review.
 - c. Installation of the proposed equipment would not involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter. New equipment shelters and cabinets shall be located within the existing approved compound.
 - d. Installation of the proposed equipment would not involve the adding of any appurtenance that would protrude from the edge of the monopole more than 20 feet or protrude more than the width of the largest existing appurtenance, whichever is less. Mounting of the proposed equipment may exceed the foregoing size limits if necessary to provide shelter from inclement weather or to connect the equipment to the monopole via cable.
 - e. Installation of the proposed equipment would not involve excavation outside the boundaries of the monopole site depicted on the original approved site development plan.

3-C-2-v	Motels: Minimum lot area required for a motel shall be 2,000 square feet per unit exclusive of proprietor's dwelling, office and accessory building.
3-C-2-w	Motor Vehicle Sales and Service: No vehicles shall be parked or displayed in any required front, side, or rear yard.
3-C-2-x	Noncommercial telecommunication antennae, structures up to 80 feet high. {This section and other applicable sections expired on October 18, 2014.}
3-C-2-y (6/15/05)	Propane Tanks: Propane tanks of 500 gallons or larger shall be placed underground
3-C-2-z	Processing of Agricultural Products Not Totally Produced in Clarke County:

(12/16/08)	An applicant proposing the Processing of Agricultural Products not totally produced in Clarke County shall submit a site plan, per Section 6 of this Ordinance, subject to administrative approval by the Zoning Administrator. Any facilities used for such processing shall be set back at least 500 feet from incorporated town limits, the Berryville Annexation Area, the Rural Residential Zoning District, and parcels less than six acres in area.
3-C-2-aa	Public and Semi-Public Uses: <ol style="list-style-type: none"> 1. Private Schools - No private school shall be permitted on a parcel of land less than three acres in size. All applicable Commonwealth of Virginia, (specifically including Title 22 and Title 35, Code of Virginia), and the County Health Department regulations shall be met. 2. Churches - No church, parish house, convent, monastery, or similar institution, shall be constructed on a parcel of land less than two acres in area.
3-C-2-bb (1/20/09)	Public Assemblies The minimum area for a Public Assembly is a parcel, or multiple adjoining parcels of land under the same ownership, of at least six acres.
3-C-2-cc (7/20/93)	Public Utility Uses: <ol style="list-style-type: none"> 1. No such activity shall occur unless and until all applicable Federal and Commonwealth of Virginia requirements concerning safety and environmental impact have been met. 2. No minimum lot area or width shall be required or a parcel of land containing such activities.
3-C-2-dd	Racetracks: Minimum required lot area for a racetrack should be 10 acres.
3-C-2-ee (3/16/99)	Recreational Facilities as an Institutional Use: No recreational activity shall be permitted that has the potential of adversely affecting the use and enjoyment of properties within residential districts. No minimum lot area or width is required.
3-C-2-ff (8/19/08) (3/16/10)	Retail and Service Businesses that are permitted principle uses; Outdoor storage is not permitted. Outdoor display of the business products is permitted. The area used for such display (excluding living plant material in containers or ball and burlap), top soil, or mulch) may cover up to 750 square feet.
3-C-2-gg (3/16/10)	Retail and Service Businesses that are permitted special uses; The total gross floor area is limited to 3,000 sq. ft. Outdoor storage is not permitted. Outdoor display of the business products is permitted. The area used for such display may cover up to 750 square feet, except for the area used for outdoor display of living plant material (in containers or ball and burlap), top soil, or mulch, which may cover up to 2250 square feet.
3-C-2-hh (6/15/10)	Solar Power Plant, Large Photovoltaic The following regulations establish minimum requirements and standards for the

placement, construction and modification of large photovoltaic solar power plants, while promoting the safe, effective and efficient use of such energy systems.

1. Location
If such plant is not part of a “behind-the-meter” program, then such plant shall be adjacent to and all facilities located within one mile of a pre-existing electrical sub-station of 138 kV or higher voltage.
2. Minimum Lot Size
No such plant shall be erected on any lot less than twenty acres in size.
3. Setbacks
All above ground facilities associated with such plant (excluding perimeter security fencing) shall be considered a structure for the purposes of determining required setbacks.
4. Safety/Access
A security fence (height and material to be established through the special use permit process) shall be placed around the perimeter of the solar power plant and electrical equipment shall be locked. Knox boxes and keys shall be provided at locked entrances for emergency personnel access. Warning signage shall be placed on electrical equipment and plant entrances.
5. Noise
No such plant shall exceed sixty-five dBA as measured at the property line or fifty dBA as measured at the nearest neighboring inhabitable building.
6. Landscaping
Such a power plant shall be considered a commercial use for the purposes of determining landscaping requirements.
7. Local, State and Federal Permits
Such a plant shall be required to obtain all necessary permits from the U.S. Government, Commonwealth of Virginia, and Clarke County, and comply with standards of the major code and safety organizations that apply to generation projects (the National Fire Protection Association (NFPA), Underwriters Laboratories (UL), and Institute of Electrical and Electronics Engineers (IEEE)).
8. Electrical Interconnections.
All electrical interconnection or distribution lines shall comply with all applicable codes and standard commercial large-scale utility requirements. Use of above ground transmission lines shall be minimized.
9. Additional Special Use Criteria
The following topics shall be addressed in a Special Use application for such plant in addition to the Special Use Review Criteria in Section 5-B-5:
 - a. Project description and rationale
Identify the type, size, rated power output, performance, safety and noise characteristics of the system, including the name and address of the manufacturer, model. Identify time frame, project life, development phases, likely markets for the generated energy, and possible future expansions;
 - b. Economic analysis
Provide economic cost/benefit analysis describing generated property taxes, sales taxes, other taxes, construction dollars spent locally, estimated construction jobs and construction payroll, estimated permanent jobs and continuing payroll, and costs associated with impact on roads and other county infrastructure in the area;
 - c. Visual impacts, appearance and scenic view sheds;
Provide visual simulations providing vantage points considering a three hundred sixty degree view of the project site;

- d. Wildlife habitat areas and migration patterns
Address potential impact on wildlife especially endangered or threatened species, on the site and in a biologically significant area surrounding the site;
- e. Environmental analysis
Identify impact analysis on historic, cultural and archaeological resources, soil erosion, flora in the project area, water quality and water supply in the area, dust from project activities, and cumulative impacts of other adjacent power plant projects;
- f. [Waste
Identify solid waste or hazardous waste generated by the project and methods of disposal;
- g. Lighting
Provide lighting plan showing impacts on adjacent properties;
- h. Transportation plan
Provide access plan during construction and operation phases. Show proposed project service road ingress and egress access onto primary and secondary routes, layout of the plant service road system and degree of upgrade plan to new and existing roads, anticipated volume and route for traffic, including oversized and heavy equipment needed for construction, maintenance and repairs, methodology of repairs and maintenance of roads and bridges used for the project, and related public pedestrian and vehicular access and associated fencing;
- i. Public safety
Identify emergency and normal shutdown procedures. Identify potential hazards to adjacent properties, public roadways, communities, aviation, etc., that may be created and address response to such hazards;
- j. Noise limitations
Identify noise levels at the property line of the project boundary;
- k. Telecommunications interference
Identify electromagnetic fields and communications interference generated by the project;
- l. Life of the project and final reclamation
Describe the decommissioning and final land reclamation plan after anticipated useful life or abandonment or termination of the project, including evidence of an agreement with the property owner that ensures proper final removal of power generating equipment.

3-C-2-ii

(9/17/96)
(5/15/07)

Special Trade Contractor:

The maximum structure size is 1,800 sq ft. The minimum lot size is two acres. Structure setbacks are as established in the zoning district regulations. For such a use with access to a Primary Highway with more than 5,000 vehicle trips a day, the maximum structure size is 3,000 sq ft. For structures larger than 1,800 sq ft, the minimum parcel size is 10 acres and the minimum building setbacks is 200 feet from all property lines, rights of way, and access easements. As determined by the Planning Commission, there may be limited exterior storage of equipment or materials based on site related circumstances. Such storage shall be shielded from view from adjacent parcels, public rights of way, and private access easements by solid fencing, evergreen trees, and/or topographic features.

3-C-2-jj

Theaters:

Indoor - Minimum required lot area for an indoor theater shall be one acre.

Outdoor, Motion Picture - Minimum area of site shall be five acres. Relation to Major Street; Entrances and Exits: The site shall be adjacent to a public road or roads and entrances and exits shall be from said roads. Waiting Areas: Off-street parking or storage lanes for waiting patrons shall be available to accommodate not less than 30% of the vehicular capacity of the theater unless at least six entrance lanes, each with a ticket dispenser, are provided in which case the amount may be reduced to not less than 10%. Orientation of Screen: The screen shall be located as to be reasonable non obtrusive to view from any major street, public area, or scenic lookout. A wall or fence of adequate height shall be provided to screen the patrons and cars in attendance at said theater from the view of the surrounding property. The perimeter of said fence shall be landscaped with suitable plants and shrubbery to preserve as far as possible the harmony with the appearance of the surrounding property. Individual loud speakers for each car shall be provided and no central loudspeaker shall be permitted. Exits and aisles and passageways shall be kept adequately lighted at all times when open to the public. Artificial lights shall be provided whenever natural light is inadequate.

3-C-2-kk
(10/17/00)
(7/18/06)
(8/17/10)

Veterinary Services, Animal Hospitals, Commercial Boarding Kennels, Breeding Kennels, Animal Shelters:

1. Companion animals shall be confined in an enclosed building, which shall be climate controlled and be constructed of sound absorbing materials so as to mitigate animal noise at adjacent property lines. Such an enclosed facility may also include a fenced exercise area. Such enclosed facilities and exercise areas shall be at least 200 feet from any property line. Areas of confinement not fully enclosed (such as dog runs) shall be at least 500 feet from any property line.
2. The hours of operation for kennels and shelters shall not be earlier than 7:00 a.m. or later than 9:00 p.m. In all cases, companion animals shall be confined in an enclosed building from 9:00 p.m. to 6:00 a.m. In exceptional cases, a companion animal may be briefly escorted outside by kennel staff during the hours of enclosed confinement.
3. A Breeding Kennel or Commercial Boarding Kennel is allowed only as an accessory use to a Single family Detached Dwelling. Enclosed facilities and exercise areas shall be at least 200 feet from any property line. Areas of confinement not fully enclosed (such as dog runs) shall be at least 500 feet from any property line.

3-C-2-ll

Wayside Stands:

Structures for wayside stands shall not exceed 400 square feet in floor area nor be closer than 35 feet to the front property line or side property line adjoining a street. Entrances and exits shall be so located as to provide safe ingress and egress from roads and shall be channeled to prevent unobstructed ingress and egress to the premises.

3-C-2-mm
(11/18/08)

Wind Energy Systems, Small

1. Small wind energy systems shall be used solely for the purpose of generating electricity pumping water, or performing work that may be connected to the utility grid pursuant to the Virginia's net metering laws (Code of Virginia (COV) § 56-594), serving as an independent source of energy, or serving in a hybrid system.
2. Siting and Design Requirements:
 - a. Small wind energy towers shall maintain a galvanized steel finish or painted to conform the tower to the surrounding environment and architecture.
 - b. No tower should have any sign, writing, or picture that may be construed as

advertising or be used for any purpose other than support of the wind turbine and associated equipment.

- c. Small wind energy systems shall not exceed sixty (60) decibels, as measured at the closest property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.
 - d. The proposed height of the small wind energy system tower shall not exceed the height recommended by the manufacturer or distributor of the system.
 - e. If the small wind system is to be connected to the electricity grid, written evidence shall be provided from the electric utility provider that the provider of electric utility service to the site has been informed of the intent to install an interconnected customer-owned electricity generator.
 - f. The minimum distance between the ground and any protruding blades used on a small wind-energy system shall be fifteen (15) feet, as measured at the lowest point of the arc of the blades. The lowest point of the arc of the blade shall also be ten (10) feet above the height of any structure within one hundred fifty (150) feet of the base. The supporting tower shall also be enclosed with a six-foot tall fence or the base of the tower shall not be climbable for a distance of twelve (12) feet.
 - g. Liability insurance shall be provided, whether or not the applicant is participating in the net metering program, meeting the insurance coverage requirements set forth in 20 VAC 5-315-60.
 - h. The small wind energy system generators and alternators should be constructed so as to prevent the emission of radio and television signals and shall comply with the provisions of Section 47 of the Federal Code of Regulations, Part 15 and subsequent revisions governing said emissions.
 - i. Wind energy system shall be set back a distance at least equal to the height of the tower plus the blade length from all adjacent property lines. Additionally, no portion of the small wind energy system, including guy wire anchors, may extend closer than ten (10) feet to the property line.
3. Code Requirements:
- a. Compliance with Uniform Statewide Building Code: Building permit applications for wind energy systems shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the Uniform Statewide Building Code and certified by a licensed professional engineer shall also be submitted.
 - b. Compliance with National Electric Code: Building permit applications for wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
 - c. Compliance with regulations governing energy net metering: Wind energy systems connected to the utility grid must comply with the Virginia Administrative Code 20 VAC 5-315: Regulations Governing Energy Net Metering.
4. Any wind energy system found to be unsafe by the Clarke County Building Official shall be repaired by the owner to meet federal, state and local safety standards or removed with six (6) months. Any wind energy system that is not operated for a continuous period of twenty-four (24) months shall be considered abandoned and the owner of the system shall remove the turbine within ninety (90) days of receipt of notice from the county instructing the owner to remove the abandoned wind energy system.

3-C-2-nn
(12/15/09)
(07/21/15)

Wineries, Farm

1. Permitted Activities. A Farm Winery may include the following activities:
 - a. the production and harvesting of fruit and other agricultural products and the manufacturing of wine;
 - b. the on-premises sale, tasting, or consumption of wine during regular business hours within the normal course of business of the licensed farm winery;
 - c. the direct sale and shipment of wine by common carrier to consumers;
 - d. the sale and shipment of wine to the Alcoholic Beverage Control Board, licensed wholesalers, and out-of-state purchasers;
 - e. the storage, warehousing, and wholesaling of wine;
 - f. the sale of wine-related items that are incidental to the sale of wine;
2. Zoning Approval for Farm Wineries. Prior to commencing operations, the owner of a farm winery shall obtain zoning approval from the Department of Planning and a business license from the Commissioner of Revenue. As a prerequisite for zoning approval, the owner shall provide copies of approved private well and onsite septic system permits issued by the Virginia Department of Health for both domestic and process operations.
3. Special Events Conducted at Farm Wineries. The owner or occupant of the property shall obtain such permit as required by Clarke County Code Chapter 57 (unless exempt under the provisions of §57.3.2) for an activity/event that is not primarily the on-premises sale, tasting, or consumption of wine during regular business hours within the normal course of business of the farm winery, but which constitutes a Special Event as defined in §57.2.

3-C-2-oo
(07/21/15)

Breweries, Farm

1. Permitted Activities. A Farm Brewery may include the following activities:
 - a. The production and harvesting of barley, other grains, hops, fruit, or other agricultural products and the manufacturing of beer;
 - b. The on-premises sale, tasting, or consumption of beer during regular business hours within the normal course of business of such licensed brewery;
 - c. The direct sale and shipment of beer in accordance with Title 4.1 and regulations of the Alcoholic Beverage Control Board;
 - d. The sale and shipment of beer to licensed wholesalers and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law;
 - e. The storage and warehousing of beer in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or
 - f. The sale of beer-related items that are incidental to the sale of beer.
2. Zoning Approval for Farm Breweries. Prior to commencing operations, the owner of a farm brewery shall obtain zoning approval from the Department of Planning and a business license from the Commissioner of Revenue. As a prerequisite for zoning approval, the owner shall provide copies of approved private well and onsite septic system permits issued by the Virginia Department of health for both domestic and process operations.
3. Special Events Conducted at Farm Breweries. The owner or occupant of the property shall obtain such permit as required by Clarke County Code Chapter 57 (unless exempt under the provisions of §57.3.2) for an activity/event that is not primarily the

on-premises sale, tasting, or consumption of beer during regular business hours within the normal course of business of the farm brewery, but which constitutes a Special Event as defined in §57.2.

3-C-3 Supplementary Regulations for Development in Annexation Area B

3-C-3-a Common Areas and Improvements in Cluster Developments

1. For any cluster development, all common improvements (including open space, recreational facilities, private streets, walkways, parking areas, and other community facilities) shall be maintained by and be the sole responsibility of the developer-owner of the cluster development until such time as the developer-owner conveys such common area to a nonprofit (homeowner's) entity consisting of at least all of the individual owners of the dwelling units in the development.
2. Deed restrictions and covenants shall be included with the conveyance to include, among other things, that assessments, charges and costs of maintenance of such common areas shall constitute a pro-rata share lien upon the individual dwelling lots, such lien inferior only to taxes and recorded trusts. Further, covenants shall specify means in which the nonprofit entity shall govern and manage itself and maintain building exteriors, landscaping, lighting, recreation areas, walkways, parking areas, snow removal, and travel ways.
3. All deed restrictions, covenants, nonprofit (homeowner's) entity incorporation documents, and information related to conveyance programs shall be prepared by the developer- owner. These documents shall be presented at the time plat and site plans are submitted and shall meet the approval of the Town's legal representative.

3-C-3-b Critical Environmental Areas

(5/13/03)

1. Critical Environmental Areas (CEAs) shall include one hundred year floodplains, land within 25 feet of the discernible edge of sinkholes, and slopes in excess of 25 percent.
2. Land designated in section 3-C-3-b-(1) as a CEA shall not be built upon.
3. Land designated in section 3-C-3-b-(1) as a CEA shall not contribute toward the maximum or minimum lot area or to open space requirements.
4. CEA also includes slopes between 15 and 25 percent to the extent set forth below:
 - a. Not more than 50 percent of land area with slopes between 15 and 25 percent shall contribute toward the maximum or minimum lot area or to open space requirements.
 - b. Land with slopes between 15 and 25 percent may be built upon.

3-C-3-c Central Sewer System Required

1. No structure in a DR-1, DR-2, DR-4, and BP Zoning Districts shall be served by an individual septic system.
2. No structure with a lot size of less than one acre shall be served by an individual septic system.
3. Individual septic systems must be approved by the Health Department.
4. Lots of Record in any district in existence on October 1, 1977, regardless of size, may be served by individual septic system with Health Department approval.
5. Notwithstanding the provisions of the paragraphs above, all approved individual septic systems in existence on the effective date of this Ordinance may continue to be used so long as such system meets Health Department requirements.

3-C-4 Private Access Easements
(7/17/07)

- 3-C-4-a In the AOC and FOC zoning districts, any one Private Access Easement may serve not more than nine lots or parcels. Parcels not served by Private Access Easements shall be served by dedicated public rights of ways improved to Virginia Department of Transportation standards.
- 3-C-4-b In all other zoning districts, any one Private Access Easement may serve not more than two lots or parcels. Parcels not served by Private Access Easements shall be served by dedicated public rights of ways improved to Virginia Department of Transportation standards.
- 3-C-4-c Interconnecting Private Access Easements shall be deemed to be a single Private Access Easement for purposes of this section.
- 3-C-4-d A lot or parcel of land shall be deemed to be served by a Private Access Easement if the lot or parcel can access a public road by use of the Private Access Easement.
- 3-C-4-e Private Access Easements existing as of July 17, 2007 and serving nine lots or more may continue to serve those lots, but no additional lots may be served by that Private Access Easement unless such additional lots are created as the result of a minor subdivision approved at least five years after any previous subdivision of the parcel being divided. When a minor subdivision of a parcel approved less than five years after approval of a previous subdivision or a major subdivision creates a situation where a Private Access Easement, existing as of July 17, 2007, would provide access to 10 or more lots, that portion of the Private Access Easement serving 10 or more lots shall be dedicated as a public right of way and improved to Virginia Department of Transportation standards. Private Access Easements existing as of July 17, 2007 and serving less than nine lots may serve an additional lot or lots with the limitation that the Private Access Easement may not serve more than a total of nine lots.

3-D ALLOCATION OF SINGLE-FAMILY DETACHED DWELLING UNIT RIGHTS IN THE AGRICULTURAL-OPEN SPACE-CONSERVATION (AOC) AND THE FORESTAL-OPEN SPACE-CONSERVATION (FOC) DISTRICTS AND LOT SIZE IN THE AOC DISTRICT

3-D-1 General Purposes

The purposes of these requirements are: To maintain and promote the rural, agricultural, forestal and open space character of the land in the AOC and the FOC zoning districts; to minimize conflicting land uses detrimental to the historical landscape and to agricultural and forestal operations; to minimize land disturbance which may result in adverse environmental impacts such as increased erosion and sedimentation, non-point pollution of surface waters, and/or contamination of ground water; and to limit construction and development of new residential subdivisions which require the unnecessarily costly provision of public facilities and services which are disruptive to historically significant scenic, agricultural, forestal, and open space areas which are remote from existing population centers.

3-D-2 Allocations

There shall be permitted on each tract, as defined in subsection 9-B-179 of this Ordinance, the following number of single-family detached dwelling units (consistent with the provisions of Section 4-E herein and of the Clarke County Subdivision Ordinance):

<u>Size of Tract</u> <u>Units Permitted</u>	<u>Number of Single - Family Detached Dwelling</u>
0 - 14.99 Acres	1
15 - 39.99 Acres	2
40 - 79.99 Acres	3
80 - 129.99 Acres	4
130 - 179.99 Acres	5
180 - 229.99 Acres	6
230 - 279.99 Acres	7
280 - 329.99 Acres	8
330 - 399.99 Acres	9
400 - 499.99 Acres	10
500 - 599.99 Acres	11
600 - 729.99 Acres	12
730 - 859.99 Acres	13
860 -1029.99 Acres	14
1030 Acres or More	15

3-D-3 Voluntary Termination of Dwelling Unit Allocation

(12/19/00) An owner of a tract may voluntarily terminate all or a portion of the dwelling unit right allocation for the tract. Such voluntary termination shall be accomplished by a notarized document, signed and recorded by the owner(s) of the tract in the Clarke County Land Records. The filing and recordation of such a document shall permanently terminate such dwelling unit rights.

3-D-4 Exceptions to Allocation

Farmsteads and tenant houses existing on October 17, 1980, are hereby excluded from the permitted allotment. That is, the permitted number of single-family detached dwelling units listed under Section 3-D-2 are allowed in addition to any farmsteads and tenant houses that existed on a given tract.

3-D-5 Errors in 1980 Tax Map

(1/20/09)

- a. For the purposes of dwelling unit right allocations under Section 3-D-2, the Clarke County Real Property Identification Map as of October 17, 1980 (1980 Tax Map) shall be presumed to be correct. In order to alter the dwelling unit right allocation to property based upon a difference in the number of parcels of an owner's property from that shown on the 1980 Tax Map, it must be clearly shown from documents recorded in the Clarke County land records that the 1980 Tax Map was incorrect. In order to alter the dwelling unit right allocation to property based upon a difference in the size of a parcel from that shown on the 1980 Tax Map, it must be shown by a plat of the parcel, as it existed on October 17, 1980, prepared by a licensed land surveyor, that the acreage of the parcel as shown on the 1980 Tax Map was incorrect.
- b. The owner of the subject parcel or the Zoning Administrator may assert an error in the 1980 Tax Map. The burden of proof shall be on the party asserting the error. The Zoning Administrator shall be responsible for determining if an error exists in the 1980 Tax Map. The Zoning Administrator shall provide written notice to the property owner of any change in allocation of dwelling unit rights based upon an error in the 1980 Tax Map, and the Zoning Administrator's determination may be appealed to the Board of Zoning Appeals as an appeal of an administrative determination.

3-D-6 Burden of Proof

The subdivider or developer shall bear the burden of proving any allocation to which he believes to be entitled and/or of proving any maximum lot size increase, which he believes to be justified.

3-D-7 Allocation Disclosure

- a. A property owner submitting a subdivision plat shall specify on that plat which lot or lots shall carry with them the right to erect or place any unused quota of dwelling unit rights which the parent tract may have, in accordance with the provisions of Section 7-B-2-i and Section 7-C-3-m of the Clarke County Subdivision Ordinance.
- b. In circumstances where the division of a tract is not subject to approval pursuant to the provisions and requirements of the Clarke County Subdivision Ordinance, the property owner proposing to divide the tract shall submit to the Board of Supervisors of Clarke County, Virginia, a duly sworn affidavit setting forth the allocation of rights for new single-family detached dwellings, as provided in Sections 3-D-2 and 3-D-3 herein, to each of the parcels resulting from the division of the tract. Said affidavit shall further state that prior to conveyance or transfer of any such parcels, the grantor shall furnish a copy of the affidavit to the grantee.

3-D-8 Vacation or Merger of Lots or Parcels of Land in the AOC and FOC Districts

(6/17/03)

When dwelling unit rights have been allocated to any lots or parcel(s) of land of record as of October 17, 1980, and such lot(s) or parcel(s) of land are subsequently (i) vacated pursuant to Title 15.2, Chapter 22, Article 6, Sections 2271 and 2272 of the Code of Virginia, 1950 (as amended) or (ii) merged, the number of dwelling unit rights shall be reallocated, pursuant to Section 3-D-2, to the lot(s) or parcel(s) resulting from such vacation or merger as though the resulting lot(s) or parcels(s) had been the tract(s) of record that existed on the Clarke County Real Property Identification Maps on October 17, 1980.

3-D-9 Boundary Line Adjustment of Lots or Parcels of Land in the AOC/FOC Districts

- (6/21/05) If a boundary line adjustment results in an increase in acreage of a tract by 10% or more, the allocation of dwelling unit rights between the tracts may be adjusted by reallocation of not more than one dwelling unit right from the tract reduced in size to the parcel increased in size, provided:
- a. the resulting dwelling unit rights on the tract increased in size does not exceed the dwelling units rights that would have been allocated to such parcel under Section 3-D-2 if such parcel had been a parcel of record that existed in the Clarke County Real Property Identification Maps on October 17, 1980, and
 - b. not more than one boundary line adjustment that includes reallocation of a dwelling unit right may be approved in any two year period.

3-D-10 Parcels with Zero Dwelling Unit Rights

- (4/18/95)
(11/24/98)
(8/19/03)
- a. No parcel may be created with zero dwelling unit rights in the AOC or FOC zoning district unless it meets one of the following criteria:
 1. contains an existing dwelling pursuant to Section 3-D-4; or,
 2. has an approved Special Use, has a use allowed as a Special Use, or
 3. is subject to a recorded permanent open-space, conservation, or historic easement granted to one or more of the following: the Clarke County Conservation Easement Authority, the Virginia Board of Historic Resources, the Virginia Outdoor Foundation, or any other entity authorized to hold an open-space easement pursuant to the Virginia Open-Space Land Act (§10.21-1700, Code of Virginia) and approved by the Clarke County Board of Supervisors.
 - b. The record subdivision plat creating a parcel with zero dwelling unit rights shall be accompanied by an affidavit signed by the property owner, that shall be recorded in the office of the Clerk of the Circuit Court with the subdivision plat, stating that the owner acknowledges that there are no dwelling unit rights assigned to the property, that no dwelling may be constructed on the property, and that these circumstances are binding on all subsequent owners.

3-D-11 Rezoning of a Portion of a Tract

- (12/19/00) If dwelling unit rights have been allocated to a tract of record as of October 17, 1980, and the Zoning District Map designation of a portion of such tract is subsequently changed from either the Agricultural-Open Space-Conservation (AOC) or Forestal-Open Space-Conservation (FOC) Zoning District, pursuant to Section 8 of this Ordinance, the number of dwelling unit rights for the portion of the tract remaining in the AOC or FOC zoning district shall be reallocated pursuant to Section 3-D-2, as though the remaining portion had been the tract of record on October 17, 1980.

3-E SCHEDULE OF OVERLAY DISTRICT REGULATIONS

(7/17/07)

3-E-1 Flood Plain District (FP)

The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- a. regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
- b. restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
- c. requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and,
- d. protecting individuals from buying land and structures that are unsuited for intended purposes because of flood hazards.

3-E-1-a Boundary

(5/19/87)

The floodplain district shall include areas subject to inundation by waters of the one hundred (100) year floods. The basis for the delineation of these zones shall be the Flood Insurance Study (FIS) for Clarke County prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 28, 2007, as amended. The following zones further describe the district:

1. The Floodway Zone is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one hundred (100)-year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this Zone are specifically defined in Table 2 of the above referenced Flood Insurance Study.
2. The Special Floodplain Zone shall be those areas identified as an AE Zone on the maps accompanying the Flood Insurance Study for which one hundred (100)-year flood elevations have been provided but for which no floodway has been delineated.
3. The approximated Floodplain Zone shall be those areas identified as an A Zone on the map accompanying the Flood Insurance Study. In this zone, no detailed flood profiles or elevations are provided, but the one hundred (100)-year floodplain boundary has been approximated.
4. The Floodplain District Maps are maintained for public use, inspection, and information in the Clarke County Administrative Offices in Berryville, Virginia, and are hereby incorporated into and made a part of this Ordinance as if fully set out herein.
 - a. The Flood Plain District shall also include those other areas in Clarke County which can be reasonably determined from local history, topographical conditions, drainage patterns, or by reference to soil surveys of Clarke County to be subject to periodic inundation by water.
 - b. In determining the 10 year and the 100 year flood elevations for the purposes of this Ordinance, additional sources of data may be used such as:
 - (1) U.S. Geological Survey - Flood Prone Quadrangles;
 - (2) U.S.D.A., Soil Conservation Service - Flood Hazard Analysis;

- (3) Geology of the Berryville, Stephenson and Boyce Quadrangles, Report of Investigations 34 (1973) Virginia Division of Mineral Resources;
- (4) Known high-water marks from past floods;
- (5) Other sources.

c. The delineation of areas designated as within the Flood Plain District shall be reconsidered by the Board of Supervisors and appropriate adjustments made only after the Planning Commission has had an opportunity to present their recommendations and public hearings have been held in accordance with Section 15.2-2204 of the Code of Virginia. Citizens may initiate such action by petition to the Planning Commission indicating that due to a flood control project, either public or private, more recent data compilation, or through new interpretation of present data the hazard from, and/or area subject to, flooding is significantly contrary to that controlled by the Ordinance. However, prior to any such change, approval must be obtained from the Federal Insurance Administrator.

3-E-1-b

(5/19/87)

(4/20/93)

(10/18/94)

(6/20/00)

Permit and Application Requirements

1. All uses, activities, and development occurring within any Flood Plain District shall be undertaken only upon the issuance of property zoning and building permits. Such development shall be undertaken only in strict compliance with the provisions of the Ordinance and with all other applicable codes and ordinances, as amended and the Clarke County Subdivision Regulations. Prior to the issuance of any such permit, the Zoning Officer shall require all applications to include compliance with all applicable state and federal laws.
2. All zoning and building permit application for development within the Flood Plain District shall incorporate the following information:
 - a. For structures to be elevated, the elevation of the lowest floor (including basement).
 - b. For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.
 - c. Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) that exceed five acres or fifty lots, whichever is the lesser.
3. Any encroachments, including fill, new construction, substantial improvements and other developments is prohibited unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge.
4. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

3-E-1-c

(5/19/87)

Permitted Uses (Exceptions) in the Floodway District

The following uses and activities are permitted provided that they are in compliance with the provisions of the underlying area and are not prohibited by any other ordinance and provided that they do not require structures, fill, or storage of materials and equipment:

1. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
2. Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, horseback riding and hiking trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas.
3. Accessory residential uses, such as yard areas, gardens, play areas, and pervious loading areas.
4. Accessory industrial and commercial uses, such as yard areas, pervious parking and loading areas, airport landing strips, etc.

3-E-1-d

(5/19/87)
(4/20/93)
(10/18/94)
(6/20/00)
(10/18/11)

Use Regulations in the Flood Plain District

In the flood plain district the following provisions shall apply:

1. Under no circumstances shall any proposed use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.
2. In riverine situations, adjacent communities and the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) shall be notified prior to any alteration or relocation of a watercourse, and copies of such notifications shall be submitted to FEMA.
3. Uses and Structures Prohibited in the Flood Plain District
 - a. Structures used for residential or non-residential use, either temporary or permanent, shall not be permitted in the Flood Plain District.
 - b. Recreational vehicles shall not be located, within 100 feet of the Shenandoah River, from January 1 through March 31 of any year. A truck camper or cap shall not be removed from its transporting vehicle nor shall wheels be removed from a trailer, within 100 feet of the Shenandoah River, at any time of the year.
 - c. There shall be no disturbance of any kind within 100 feet of the Shenandoah River except as provided in Section 3-E-5, Stream Protection Overlay District.
4. The following uses may be permitted, with issuance of a Zoning and/or Building Permit, in the Flood Plain District limited by the regulations imposed by this section, the underlying zoning district, and the Uniform Statewide Building Code:
 - a. Recreational Vehicles located in the Flood Plain District shall meet the following minimum requirements:
 - (1) be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions; or
 - (2) meet all the requirements for manufactured homes in this ordinance and the Uniform Statewide Building Code
 - b. Agricultural uses which do not include utilization of structures with an aggregate floor area of more than 500 square feet. However, no structure for such uses shall be allowed within 100 feet of the Shenandoah River.
 - c. Recreational uses limited to parks, playgrounds, golf courses, driving ranges, boat landings, docks, picnic grounds, and transient amusement enterprises, provided such facilities are not usable for human habitation.
 - (1) Structures with walls related to such uses shall not exceed an aggregate

floor area of five hundred (500) square feet per parcel or have less than one hundred and two hundred (200) square feet. Such structures shall be set back at least 100 feet from the Shenandoah River.

- (2) Structures without walls related to such uses shall not exceed an aggregated floor area of 1500 square feet per parcel or have less than 200 square feet. Such structures' roof framing shall be at least one foot above the 100-year flood elevation; however, the structures' height shall not be more than 15 feet above grade. Such structures shall be set back at least 500 feet from the Shenandoah River.
- d. Accessory structures not more than 500 square feet or less than 200 square feet in floor area to include roadside and park stands for the sale of food, fruit and vegetables, fishing bait, and boat rental, provided such facilities are not usable for human habitation. However, no structure for such uses shall be allowed within 100 feet of the Shenandoah River.

3-E-1-e Design Criteria for Utilities and Facilities in Flood Plain Districts

1. Any replacement sewer facilities and private package treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into the flood waters. In addition, they shall be located and constructed to minimize or eliminate flood damage impairment.
2. Any replacement water facilities shall be designed to minimize or eliminate infiltration of floodwaters into the system, and be located and constructed to minimize or eliminate flood damage.
3. All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The proposed system shall insure drainage away from buildings and on-site waste disposal sites. The County may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.
4. All utilities such as gas lines, electrical and telephone systems being located in flood prone areas shall be located, elevated (where practicable) or buried and constructed to minimize the chance of impairment during a flood occurrence.
5. Streets and sidewalks shall be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.
6. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
7. The substantial damage or improvement of any structure and/or use shall require the entire structure to be in full compliance with the provisions of this ordinance.
8. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:
 - a. the lowest floor of the manufactured home is elevated no lower than one (1) foot above the base flood elevation; or,
 - b. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above the grade;

- c. the manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement.

3-E-1-f

Variances: Factors to be considered

1. In considering a variance application, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:
 - a. The showing of good and sufficient cause.
 - b. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway Zone that will cause any increase in the one hundred (100)-year flood elevation.
 - c. The danger that materials may be swept on to other lands or downstream to the injury of others.
 - d. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 - e. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
 - f. The importance of the services provided by the proposed facility to the community.
 - g. The requirements of the facility for a waterfront location.
 - h. The availability of alternative locations not subject to flooding for the proposed use.
 - i. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - j. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
 - k. The safety of access by ordinary and emergency vehicles to the property in time of flood.
 - l. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
 - m. The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
 - n. Such other factors which are relevant to the purposes of this ordinance.
2. The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.
3. Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.
4. Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief from exceptional hardship to the applicant.

5. The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one hundred (100)-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.
6. A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

3-E-2 Spring Conservation Overlay District (SC)

(1/7/00) Intent: The Spring Conservation District (SC) is designed to apply special regulations to the groundwater recharge area of the Prospect Hills Spring, which serves as the source of the Clarke County Sanitary Authority's Boyce-Millwood-White Post Public Water System. The purpose of the District is to protect those water resources in Clarke County which are necessary to serve adequately and efficiently the public need, health and welfare, to preserve the natural environmental qualities and function of the land to purify water before it reaches such resources, and to prevent the use and development of land in designated water resource recharge areas in a manner tending adversely to affect the quantity and/or quality of such significant water resources or tending to destroy or have a substantially adverse effect on such resources by virtue of pollution of the land and water by foreign substances, including noxious or hazardous biological and/or chemical substances, materials, and/or wastes, whether gas, liquid, or solid.

3-E-2-a Use Regulations

(3/20/90)

(6/15/93)

(1/20/98)

1. Development and use of land permitted in accordance with the district regulations for the underlying zoning district may be permitted within the SC district, provided the developer presents satisfactory evidence that such use and development is compatible with the general intent and purpose of the Spring Conservation District, as stated in Section 3-E-2, and that such proposed use and development will not have an adverse effect upon the environment. These provisions shall not apply to any uses and structures which otherwise legally existed as of 20 July 1983, provided such existing uses and structures shall be subject to the provisions of Section 4-K of this Ordinance, nor shall these provisions apply to ordinary gardening activities in lawn or garden areas which are primarily for home consumption. No person shall engage in any land disturbing activity within the district in the absence of an approved erosion and sedimentation control plan prepared in accordance with the provisions of the Clarke County Erosion and Sedimentation Control Ordinance. In no event shall the following uses or development of land within the district be permitted: Mining, and/or extraction of natural resources; drilling, other than for private, on-site source of potable water; sanitary land filling, application, depositing, spreading or spraying of any hazardous or toxic chemical and/or biological materials or substances except applications of such pesticides and/or herbicides as may be required under emergency situations and as such applications of pesticides and/or herbicides may be permitted by the Zoning Administrator upon an affirmative recommendation from the Virginia Cooperative Extension Service; underground storage of any chemical or petroleum products for commercial or industrial purposes; storage, disposal, and/or land application of sludge, residue and/or effluent resulting from treatment, storage, disposal or reclamation of sewage and industrial wastes; animal confinement operations (feedlots). Residential use and development of the land within the district may be permitted in accordance with the provisions of the underlying zoning district, except that such residential use and development shall be subject to the following conditions:
 - a. Any lot upon which a new dwelling is to be located, if such dwelling is to be served by an individual subsurface septic system, shall have a minimum lot area of 2 acres and a maximum lot area of 4 acres, in the Agricultural-Open Space-Conservation (AOC) zoning district;
 - b. Maximum lot coverage by all impervious surfaces shall not exceed 20%
2. Subsurface Septic Systems Regulations
 - a. For subsurface septic systems within 1500 feet of Prospect Hill Spring:
 - (1) No sewage disposal system, including drainfields, shall be located within 1,000 feet of Prospect Hill Spring.
 - (2) The septic/drainfield system shall be low pressure systems with oversized

- drainfields (1.5 times the normal size). Manhole access shall be provided to the low pressure pump on each system.
- b. For subsurface septic systems between 1500 and 3000 feet of Prospect Hill Spring: Septic/drainfield systems shall be low pressure systems.
 - c. For any location in the overlay district:
 - (1) A 100% normal size reserve area shall be provided for the drainfield on each parcel.
 - (2) Installation of any septic/drainfield system shall be inspected and approved by the County's designated engineer or representative.
 - (3) Lot owners of all parcels shall be required to have septic systems maintained at least once every seven years. Maintenance will consist of pump out if determined necessary by a qualified septic hauler, and clean out and leveling of distribution boxes and associated lines.
 - d. On-site individual subsurface septic systems shall be permitted only in accordance with page 17 of the report of Schnabel Engineering and Associates, Contract V82600, Hydrogeologic and Engineering Study, Prospect Hills Spring, Clarke County, Virginia, dated May 2, 1983, and where applicable, such systems shall be designed, placed and constructed only in accordance with the recommended guidelines for installation thereof set forth in Appendix B of the aforesaid report of Schnabel Engineering Associates (Contract V82600).
3. Structure Location Regulations
- Within 400 feet of Prospect Hill Spring only public utility structures may be constructed.

3-E-3

Historic Districts (H)

Intent: The intent of this Section is to promote and protect the health, safety, comfort, and general welfare of the community through the preservation and enhancement of buildings, structures, places, and areas that have special historical, cultural, architectural or archaeological significance. It is hereby recognized that the destruction or alteration of said buildings, structures, places, and areas may cause the permanent loss of resources that are of great value to the people of Clarke County, and that special controls and incentives are warranted to ensure that such losses are avoided when possible.

3-E-3-a

The purposes for establishing a special Historic District zoning classification are:

1. To preserve and improve the quality of life for residents of the County by protecting familiar and treasured visual elements in the area.
2. To promote tourism by protecting historical and cultural resources attractive to visitors.
3. To stabilize and improve property values by providing incentive for the upkeep and rehabilitation of older structures.
4. To educate residents on the local cultural and historic heritage as embodied in the Historic District(s) and to foster a sense of pride in this heritage.
5. To promote local historic preservation efforts and to encourage the nomination of qualified historic properties to the National Register of Historic Places and the Virginia Historic Landmarks Register.
6. To prevent the encroachment of buildings and structures which are architecturally incongruous with their environs within areas of architectural harmony and historic character.

3-E-3-b

Creation of Historic District

(7/17/93)

A special zoning overlay designation is hereby created for Historic Districts and historic landmarks properties under authority of Section 15.2-2306 of the Code of Virginia (1950), as amended. Location and boundaries of Historic Districts shall be delineated by the Board of Supervisors pursuant to Article 8 of this Ordinance, upon consultation with the Historic Preservation Commission, the Planning Commission, residents of proposed Historic Districts and local citizens' groups, and shall be incorporated into the Official Zoning Map as special overlay zones designated as Historic Districts (H). In addition to the procedures established in Article 8, the following procedures shall also be followed. The Historic Preservation Commission may initiate a proposal of an amendment to the Ordinance for the establishment of a Historic District (H) by adoption of a resolution proposing the amendment. Prior to the public hearing of the Planning Commission on a petition for the establishment of an Historic District (H), the Historic Preservation Commission shall hold a public hearing on such a petition following the same procedures for notice as established for the Planning Commission in Article 8-D. Following the public hearing, the Historic Preservation Commission shall report to the Planning Commission and the Board of Supervisors its recommendation with respect to the proposed amendment. The Historic Preservation Commission shall make its report in a manner following the same procedures established for the Planning Commission's recommendation in Article 8-D. An Historic District shall not be designated if the owner(s) of record of at least one-quarter of the parcels, shown on the Commissioner of Revenue Tax

Maps, within a proposed Historic District filed written objection thereto with the Board of Supervisors prior to commencement of the public hearing before the Board, as such hearing is required pursuant to Article 8 of this Ordinance.

3-E-3-c

Criteria for Designation of Historic Districts

The Board of Supervisors may designate one or more Historic Districts pursuant to subsection 3-E-3-b provided that any such District conforms to the definition of Historic Areas set forth in Section 15.2-2201 of the Code of Virginia (1950), as amended, and that any such District meets one or more of the following criteria:

1. It is associated with a particular person, event, activity, or institution of local, state or national historical significance.
2. It contains buildings whose exterior design or features embody or exemplify the distinctive design characteristics of one or more historic areas, styles, materials, or construction methods, or exemplify the work of an acknowledged master or masters.
3. It possesses an identifiable character that reflects the cultural or architectural heritage of Clarke County.
4. It contains qualities and/or artifacts that significantly contribute to present-day knowledge and understanding of lifestyles, activities, events or experiences of a previous area.
5. Its unique location or physical characteristics represents an established and familiar pattern or unique visual feature of the County.

3-E-3-d

(7/17/90)

Historic Preservation Commission

1. Creation and Membership

For the purposes of carrying out the provisions of this Section, an architectural review board to be known as the Historic Preservation Commission is hereby created under authority of Section 15.2-2306, Code of Virginia (1950), as amended. The Historic Preservation Commission, hereafter referred to as the "Preservation Commission," shall consist of at least five members and shall not exceed seven members, to be appointed by the Board of Supervisors. Members shall be residents of Clarke County with a demonstrated interest in and knowledge of the historic character of Clarke County. The Board shall make every reasonable effort to appoint at least two members with professional training or equivalent experience in one or more of the following areas: architecture, architectural history, historic preservation, archeology, land use planning, or related fields. The Board shall make every reasonable effort to appoint at least one member that is a professional architect or architectural historian. At least one member shall be appointed from the Planning Commission upon recommendation to the Board by the Planning Commission. After the establishment of an Historic District, at least one member shall be a resident of a local Historic District.

a. The professional qualifications for an architect are either:

- (1) professional degree in architecture with at least two years of full time professional experience in architecture, or
- (2) a state license to practice architecture.

b. The professional qualifications for an architectural historian are either:

- (1) a graduate degree in architectural history, art history, historic preservation, or closely related field, with course work in American architectural history, or
- (2) a bachelor's degree in architectural history, art history, historic preservation, or closely related field with one of the following, either:
 - a. at least two years of full time experience in research, writing, or teaching in American architecture or restoration architecture with an academic institution, historical organization, agency, museum, or other professional

institution, or

- b. substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.

2. Officers and Terms

At its first meeting of each calendar year, the Preservation Commission shall elect from its members one chairperson, who will call and run meetings, and one vice-chairperson, who will call and run meetings in the absence of the chairperson. Each member shall be appointed for a term of four years, except for the first established Preservation Commission wherein two members shall be appointed for a two year term and three members shall be appointed for a four year term. All subsequent appointments shall be for a four year term. When a term expires, a member may be re-appointed or a new member appointed to begin a four year term. When a term expires, or whenever a vacancy occurs, a member shall be appointed or re-appointed within 60 days when necessary to maintain at least five members on the Commission and meet other membership requirements established in Section 3-E-3-d-(1). A secretary shall be chosen to record the activity at the meetings, and may be a nonmember with no voting privileges.

3. Responsibilities of the Preservation Commission shall include the following:

- a. Coordinate local historic preservation efforts with those of the Virginia Historic Landmarks Commission.
- b. Sponsor public information activities, where deemed appropriate, publicizing historic preservation efforts, which activities may include, but are not limited to: speaking engagements, handouts, press releases and films.
- c. Review projects and developments which may change or alter the historic character of an existing Historic District and report findings to the Planning Commission.
- d. Issue Certificates of Appropriateness and formulate necessary administrative procedures, which shall include prescribed requirements for applications for such Certificates.
- e. Advise persons living within Historic Districts on measures which they may take to preserve the historic character of their District.
- f. Report to the Planning Commission on its activities and make recommendations in an annual report to the Planning Commission and the Board of Supervisors concerning the operation of the Preservation Commission and the status of historic preservation within the County.
- g. Develop specific guidelines for each Historic District, prior to establishment of each such District, which guidelines delineate specific criteria for the approval of Certificates of Appropriateness, based upon the general criteria listed in subsection 3-E-3-e-(3) and the distinctive characteristics and features of each District. Subsequent to establishment of any Historic District, proposed changes or amendments to the specific guidelines for that District shall be re-viewable by the Planning Commission prior to institution or implementation of such changes or amendments.
- h. Hold public meetings, as often as necessary to fulfill the responsibilities assigned by this Section.
- i. Grant the right to display authorized plaques to commemorate buildings or sites which are important and significant physical features in Clarke County.
- j. Provide advice and recommendations to the Planning Commission on particular projects and developments as specifically requested by the Planning Commission.

3-E-3-e
(6/18/96)

Certificate of Appropriateness

1. Erection, Reconstruction, Alteration, or Restoration in an Historic District

(6/20/00)
(10/18/11)
(3/26/13)

- a. The Preservation Commission shall review a Certificate of Appropriateness before any of the following activities may occur within the boundaries of a Historic District:
 - (1) the erection of any building or structure; or
 - (2) major alteration or restoration of a contributing building or structure.
 - b. The Executive Committee of the Preservation Commission comprised of the Commission's Chair and the Vice-Chair, shall review a Certificate of Appropriateness before any of the following activities may occur within the boundaries of a Historic District:
 - (1) any degree of alteration or restoration of a non-contributing building or structure;
 - (2) minor alteration or restoration of a contributing building or structure, or
 - (3) the erection of a sign.
 - c. If the Executive Committee finds that the proposed activity is not compatible with the Historic District, as described in section 3-E-3-e-(3), Criteria for Approval of Certificate Of Appropriateness, the matter shall be referred to the full Preservation Commission for consideration. A decision by the Executive Committee to approve a Certificate may be appealed to the full Preservation Commission by any aggrieved party (except as noted below) within 10 working days of the decision. A decision of the Preservation Commission may be appealed to the Board of Supervisors per section 3-E-3-f, appeals The Chair of the Commission shall inform the Historic Preservation Commission of any Executive Committee approvals in writing, within five working days of the action. A member of the Commission may request, in writing, that the full Commission review an approval by the Executive Committee. Such request for review must be submitted to the Zoning Administrator within five working days of action notification.
 - d. A major alteration of a building or structure shall include any work that requires a building permit, or the repair or replacement of windows or roofs. A minor alteration of a building or structure does not require a building permit or does not involve the repair or replacement of windows or roofs.
 - e. Approval of a Certificate certifies that such erection, reconstruction, alteration or restoration is compatible with the historic landmarks, buildings, or structures within the District, based upon criteria listed in subsection 3-E-3-e-(3). This section shall not be construed as to include normal repairs and maintenance such as repainting, provided such repair and maintenance activity does not include any architectural changes or alterations.
2. Razing, Demolition or Moving Within an Historic District
No historic landmark, building, or structure within any Historic District shall be razed, demolished, or moved until a Certificate of Appropriateness is issued by the Preservation Commission, or upon appeal, by the Board of Supervisors. However, approval of such a Certificate of Appropriateness for demolition of a non-contributing structure within an Historic District may be delegated by the Historic Preservation Commission to the Zoning Administrator (following the criteria and notice set forth in this ordinance), with appeal to the Historic Preservation Commission, and with subsequent appeal to the Board of Supervisors.
 3. Criteria for Approval of Certificate of Appropriateness
In reviewing a request, the Preservation Commission shall not approve a Certificate of Appropriateness unless the applicant's proposals are architecturally compatible with the motif and character of the Historic District. The Preservation Commission shall base its decision on whether the proposed action conforms to the criteria set forth by the Secretary of the Interior's Standards for Rehabilitation. The Preservation Commission

shall also consider the following factors:

- a. The extent to which the project will affect the overall character, visual fabric, rhythm, and continuity of the District.
- b. Whether the height, proportion, openings, spacing, roofs, walls, fences, landscaping, ground cover, scale, and directionality of the proposed work are visually compatible with the surrounding community.
- c. Whether the materials, textures, and colors planned for use are compatible with the District's character.
- d. In the case of a building to be razed, demolished, or moved, the extent to which the loss of said building will detract from the Historic District and the purposes of this Section.

4. Action on Certificate of Appropriateness Application

a. Public Notice Required

The Commission shall provide public notice in accord with section 10-E, Public Hearings of an application for a Certificate of Appropriateness for any activity that is initially heard by the full Commission. Public notice is not required before action by the Executive Committee.

b. Time Period for Action

The Preservation Commission shall act to approve, approve with conditions, or deny the requested Certificate of Appropriateness within 60 days of the initial Public Hearing on the request. Failure of the Commission to act within this 60-day period shall be deemed approval of the request unless the Commission and the applicant agree upon an extension of the time period. The Executive Committee shall act to approve, approve with conditions, or refer to the Commission the requested Certificate of Appropriateness within 30 days of the first meeting of the Committee on the request. Failure of the Committee to act within this 30-day period shall be deemed approval of the request unless the Committee and the applicant agree upon an extension of the time period.

5. Approval Expiration

Unless a final Certificate of Occupancy has been issued for the structure or structures described in the Certificate of Appropriateness, an approved Certificate shall no longer be valid after five years from the date of issuance by the Preservation Commission. Upon application of the developer filed before expiration of the Certificate, the Preservation Commission may grant one or more extensions of such approval for additional periods as the Preservation Commission, at the time the extension is granted, determines to be reasonable. Such extensions shall take into consideration:

1. Whether a building permit has been issued;
2. Whether substantial construction work has been completed;
3. The size and phasing of the project; and
4. The laws, ordinances, and regulations in effect at the time of application for the extension request.

3-E-3-f
(10/18/11)

Appeals

1. Any decision made under the provisions of this Section may be appealed to the Board of Supervisors by any party aggrieved by such decision and may be further appealed pursuant to Section 15.2-2306, Code of Virginia (1950), as amended.
2. In lieu of an appeal to the Board of Supervisors of a decision to deny a request to demolish an historic structure, Section 15.2-2306 provides a procedure to allow a property owner to demolish an historic structure after it has been offered for sale "at a price reasonably related to its fair market value".
 - a. Such price shall be not more than 120% of the assessed value of the property as set

by the County Commissioner of the Revenue.

- b. If the property owner does not believe that a price that is not more than 120% of the assessed value is reasonable, he or she may obtain a value from a certified appraiser at his or her expense. If the value determined by the property owner's appraiser exceeds 120% of the assessed value, the appraiser and the Commissioner of the Revenue shall establish a mutually agreed upon price. If the appraiser and the Commissioner are unable to establish a mutually agreed upon price, the County shall obtain the services of a certified appraiser to establish a third value. The cost of this appraiser to establish a third value shall be paid by the property owner. The price reasonably related to fair market value shall then be the average of the assessed value, the value established by the appraiser hired by the property owner, and the value established by the third appraiser.

3-E-3-g

Penalties for Non-Compliance

Any violation of this section shall be subject to the provisions for violations and penalties set forth in Section 10 of this Ordinance.

- 3-E-4 Historic Access Corridor Overlay District - (HC)
- (9-27-91) Intent: The intent of this Section is to promote and protect the health, safety, comfort, and general welfare of the community through establishing high quality design criteria. The purpose of the quality design criteria is to achieve architectural control of the buildings, structures, places, and areas of new development along the arterial streets or highways which are significant routes of tourist access to the County, municipalities in the County, to designated historic landmarks, buildings, structures or district therein, or in a contiguous county or municipality. The purpose of architectural control is to preserve and enhance areas of special historical, cultural, architectural or archaeological significance. The protection of these vital corridors will help stabilize and improve property values, protect and enhance the designated area's attraction to tourists and visitors, and will support and stimulate complimentary development appropriate to the prominence afforded properties contiguous to significant arterial routes. Benefits attributable to the promotion of superior design and appearance of structures constructed and altered along arterial highways will ultimately promote the public health, safety, and general welfare of the citizens of Clarke County.
- 3-E-4-a Creation of Historic Access Corridor District
- A special zoning overlay designation is hereby created for parcels of land contiguous to arterial streets or highways which are significant routes of tourist access under authority of Section 15.2-2306 of the 1950 Code of Virginia, as amended. Location and boundaries of Historic Access Corridor Districts shall be delineated by the Board of Supervisors pursuant to Article 8 of this Ordinance, and shall be incorporated into the Official Zoning Map as special overly zones designated as Historic Access Corridor District (HC).
- 3-E-4-b Criteria for Designation of Historic Access Corridor Districts
- The Board of Supervisors may designate one or more Historic Access Corridor Districts pursuant to section 3-E-4-a. Any such District shall encompass parcels of land contiguous to arterial streets or highways which are significant routes of tourist access to the County, municipalities in the County, to designated historic landmarks, buildings, structures or district therein, or in a contiguous county or municipality and shall conform to the definition of such corridors set forth in Section 15.2-2201 of the Code of Virginia (1950), as amended.
- 3-E-4-c Certificate of Appropriateness
1. When required no structure or building to which the HC District applies, shall be erected, reconstructed, altered, or restored unless a Certificate of Appropriateness is approved. Single family detached dwellings or any structures existing as of January 1, 1995 that are expanded by not more than 100% of their heated square footage as of January 1, 1995 are excluded from the requirement for a Certificate of Appropriateness. If any part of a structure to be erected, altered, or restored is located within these boundaries, the entire structure shall be governed by this ordinance. Any structure proposed to be erected, altered, or restored within a parcel, which is partly located within the HC District, shall be exempt from this ordinance, if said structure is located entirely outside the HC District. The provisions of this ordinance shall not apply to the regular maintenance of structures within the HC District. For the

purposes of this section, changing the exterior color and/or materials of a structure or building shall be deemed an alteration and not regular maintenance.

2. Reviewing Board

The architectural review board responsible for the administration of this ordinance and approval or denial of Certificates of Appropriateness for activity in Annexation Area B (Town/County Annexation Agreement, December 1987) shall be the Berryville Area Development Authority. The architectural review board responsible for the administration of this ordinance and approval or denial of Certificates of Appropriateness for activity outside of Annexation Area B shall be the County Planning Commission.

3. Applications

Applications for Certificates of Appropriateness shall be made on forms provided by the County Zoning Administrator, who shall serve as agent for the Architectural Review Board. Applications for new construction shall be submitted with the applications for site plan approval and shall be considered in conjunction with the site plan. Other applications shall be submitted at least 15 calendar days before the next regularly scheduled meeting of the architectural review board. The Zoning Administrator may require a revised application with a new application date when alterations or modifications are made to the accepted application.

4. Except as further provided, when filing an application of a Certificate of Appropriateness, applicants must submit the following information for consideration by the architectural review board, including 15 copies of the following:

- a. architectural elevations of all building facades and structures, drawn to scale, identifying all colors and materials to be used (a set of samples shall be submitted wherever practical), and showing spatial relationships with neighboring properties (use of photographs or drawings relating the proposed project to the surrounding streetscape is encouraged);
- b. approved or proposed site plans;
- c. landscaping plans, with signage, and lighting systems (including analysis of impacts on nearby parcels);

5. When filing an application for a Certificate of Appropriateness only for signs, applicants must submit the following information:

- a. a scale drawing of the proposed sign;
- b. propose materials for the sign, including supports, and the lighting method to be used;
- c. a sketch or photograph showing the proposed location of the sign on the building or site.

6. Waiver of Application Requirements

Upon written request from the applicant, the Zoning Administrator may waive any of the requirements in the previous section, deemed not to be necessary for review of the application. The architectural review board may overrule these waivers if additional information is determined to be required by the board at its meeting to consider the application. The Zoning Administrator may promulgate rules and procedures for the filing application under this ordinance not in conflict with the provisions of this ordinance.

7. Application Action

- a. In response to applications for Certificate of Appropriateness, the architectural review board shall vote and announce its decision to approve, deny, or approve with conditions that modify the application.

- b. Action on any matter properly before the architectural review board shall be taken not later than 45 days after the conclusion of the public meeting on the matter, unless the time is extended by mutual agreement between the architectural review board and the applicant.
 - c. All decisions of the architectural review board in granting or denying a Certificate of Appropriateness shall be in writing, a copy of which shall be sent to the applicant and a copy filed with the agent.
 - d. In the case of denial of a Certificate of Appropriateness, the architectural review board shall state the reasons for such denial in writing. In citing the reasons for denial, the architectural review board may make suggestions that would assist the applicant in the resubmitting of an application.
8. Public Meetings
The meeting of the architectural review board shall be open to the public and a full and impartial hearing shall be granted to the applicant.
9. Appeals
Any decision made under the provisions of this Section may be appealed to the Board of Supervisors by any applicant aggrieved by such decision and may be further appealed pursuant to Section 15.2-2306, Code of Virginia (1950), as amended.
10. Conformance with Certificate of Appropriateness
- a. Before the issuance of building permits for any work that has been approved by the architectural review board, the Zoning Administrator shall require applicants to submit plans that accurately reflect any changes or conditions imposed by the architectural review board in its approval of projects.
 - b. All work performed pursuant to issuance of a Certificate of Appropriateness shall conform to the approved plans and specifications and to any modifications required by the Certificate. In the event work is performed not in conformance with the Certificate, the agent shall notify the responsible person or firm in writing of the violations and shall take the necessary legal steps to ensure that the work is performed in conformance with the Certificate. Any violation of this section shall be subject to the provision for violations and penalties set forth in Article 11 of this Ordinance.
 - c. Any change in the approved plans subsequent to the issuance of the Certificate of Appropriateness shall be promptly submitted to the agent prior to construction of the modified feature. The agent may administratively approve non-substantial modifications with notice thereof to the architectural review board at its next meeting. Copies of any proposed revisions deemed substantive by the agent shall be forwarded to the architectural review board, accompanied by additional application materials as determined necessary by the agent and the architectural review board to render a decision.

3-E-4-d

(7/20/93)
(11/22/94)

Design Guidelines:

Design criteria for that portion of the Historic Access Corridor Overlay District within the boundaries of the Berryville Area Plan. Project Plans must adequately address and respond to each of the eighteen guidelines listed below in order to receive a certificate of appropriateness. In instances where these guidelines discuss or imply compatibility with existing structures, such compatibility should be primarily with contributing structures in national, state, or local historic district in Clarke County and secondarily with existing

structures within 300 feet of the proposed site.

1. Architectural Style: No specific architectural style shall be imposed in the administration of the historic district ordinance. Buildings should be designed as single entities, with the character and design of the primary facade continued on side and rear elevations. Architectural elements from widely different styles should not be mixed on a single building. Design themes unrelated to the traditions of Clarke County should be avoided. For example, buildings that attempt to look like a Bavarian cottage, Spanish mission, Asian pagoda, Polynesian village, Tudor mansion, waterfront shanty, etc., bear no relationship to the history or architecture of this area.
2. Height: It is important along street facades that the height of new buildings, especially those between two contributing structures, conforms to the average height of other buildings in the block.
3. Proportion: New construction should relate to the dominant proportions of buildings in the immediate area. Overall proportion (i.e. the total ratio of height to width) is the most important consideration. Also important is the overall ratio to space to void (i.e. the mass of the walls and the places where this mass has been broken up by openings for windows and doors).
4. Scale: Scale is determined by several factors including cornice or eave height, the elevation of the first floor, floor-to-floor heights, and the proportions determined by the size and arrangement of door and window openings and porch column spacing. The scale and mass of a proposed project should relate to nearby buildings or open space surrounding it.
5. Openings: New construction should take into account the ratio of solid to void. The pattern of overall proportion of openings should relate to other buildings in the district. Large expanses of blank walls facing a street are not generally compatible with historic development patterns.
6. Orientation: The orientation and setback of the main facades of new construction should respect the precedent set by existing buildings in the surrounding district. Commercial and office structures should direct their primary orientation and entrance to the major adjacent public right-of-way from which traffic arrives to the structure.
7. Entrances: The spacing and proportion of entrances and porches along the street help determine the rhythm of the streetscape. New construction of entrances should continue the existing rhythm. Building entrances should be clearly defined, and pedestrian walkways clearly associated with the entrance.
8. Rhythm: Rhythm is the repetition of architectural elements such as doors, windows, porches and cornice decorations. A building or project should continue the architectural rhythm already established in the district.
9. Spacing: The spacing between buildings helps determine the rhythm of the streetscape. New construction should be spaced to continue the existing pattern of the surrounding area.
10. Materials: In order prevent disruption of the visual quality of the neighborhood, an effort shall be made to use traditional materials that are predominantly used in the area. Use of inappropriate materials, including reflective glass, metal wall panels, plastic, fiberglass stone, or fiberglass brick, should be avoided.
11. Texture: The texture of materials used in new construction should conform to existing texture patterns such as brick, stucco, horizontal or vertical wood siding, rough rock, or smooth sand. Introducing non-traditional textures is discouraged.
12. Color: The predominant colors of any unpainted materials proposed should

resemble predominant tones in the district. Paint color shall not be considered as part of these guidelines, though the use of trim colors to accent architectural details is encouraged.

13. Details: Architectural details are very important in maintaining the character of a district; new construction should employ some of the details typical of the district. These may include: cornice design, window trim, chimney shapes, shutters, door paneling, porches, railing and fence designs. Architectural details should be continued on any side or rear building facade that is visible from a public right-of-way. Any facade that presents a blank wall must be screened in an acceptable manner. Small attachments to buildings (such as meters, telephone and cable connections) should be placed so as not to detract from the overall project. Large attachments (such as air conditioning units, fuel tanks, antennas and satellite dishes) should either be screened or placed out of view from any public right-of-way.
14. Roofs: Roof shape, pitch, and material on new projects should be similar to existing roofs in the district.
15. Walls and Fences: These items can add visual cohesiveness to a project. Use of traditional materials such as wood, stone, brick, iron, or evergreens is encouraged. Chain link fences, including those with slats, are discouraged, particularly when visible from a public right-of-way.
16. Signs: The size and height of signs in developed areas should reflect the slower automobile speeds and pedestrian scale of such areas. Projecting and other wall-mounted signs are encouraged for commercial structures in developed areas. Monument signs are encouraged, rather than pole-mounted signs. Signs should reflect the buildings to which they refer, and be part of an overall landscape plan.
17. Off-Street Parking: Large expanses of off-street parking should be avoided. Parking areas should be divided into smaller units through landscaping or building location.
18. Walkways should be delineated by the use of special paving materials.
19. Building Arrangement: When several structures are planned on a single site, structures should complement one another, and reflect an overall plan for the appearance of the property. Commercial and office development should cluster buildings into organized groups.

3-E-4-e

(11/22/94)

(2/21/12)

Design Criteria for that portion of the Historic Access Corridor Overlay District outside of the boundaries of the Berryville Area Plan.

1. Administration

a. Purpose and Intent

The purpose of these Design Criteria is to insure that new or remodeled commercial buildings along arterial highways that are routes of access to designated historic areas in Clarke County are compatible with the character of these historic areas. The purpose is also to establish a coherent commercial identity among these new or remodeled buildings through shared design principles as a common denominator. It is the intent of these Criteria to:

- (1) Accommodate economic growth that will both maximize direct county revenues and minimize the indirect costs of eroding the distinctive rural character of Clarke County;
- (2) Protect private property values and related public investment from the detrimental impacts of indiscriminate and insensitive new construction;

- (3) Anticipate and guard against commonplace and uniform trademark architecture would create anonymous strip developments indistinguishable from those in other parts of the country;
- (4) Maintain the image of Clarke County as seen from its most traveled highways to benefit residents, attract tourists, and interest potential employers;
- (5) Encourage new commercial ventures to produce new architecture compatible with the traditional building forms of Clarke County by recognizing that design principles from the past can both inspire and discipline change for today;
- (6) Provide for an appropriate and attractive yet diverse mix of new buildings that relate to one another in a coherent way by guiding them toward shared design principles without imposing any specific architectural style.

b. Compliance

- (1) These criteria identify the design elements found in Clarke County buildings that are at least 50 years old and have retained their architectural integrity. The Virginia Department of Historic Resources and the U.S. Department of the Interior use this standard to determine whether or not a structure is considered to be "contributing" to the historic character of a community. The term "contributing buildings," as used here, refers to those buildings that have been identified in The Clarke County Rural Reconnaissance Survey, 1989 & 1993, White Post National Register Nomination, 1986, and Berryville/Boyce/ Millwood Historic Districts Survey, 1985, all surveys prepared according to the standards established by the Virginia Department of Historic Resources.
- (2) These criteria shall be followed to the greatest extent possible, as determined by the review board, given the physical nature of a specific site and its intended use. Although achieving compliance with all these criteria is desired, the review board may use its discretion in determining an application's degree of compliance, as long as a proposed design is consistent with the purpose and intent of these criteria.

2. Architectural Style and Form

- a. Historic design elements of contributing buildings found in Clarke County should be the basis for proposed designs.
- b. The architectural style and form of existing commercial buildings should be retained. New commercial construction, including additions to existing buildings, should represent the era in which it is built, while including design elements found on the County's historical commercial buildings.
- c. Design concepts foreign in time and place to Clarke County are inconsistent with the county's architectural character and should not be used. For example, a building that imitates a Bavarian cottage, Spanish mission, Asian pagoda, Polynesian village, Tudor mansion, or New England sea shanty bears no relationship to the history or architecture of Clarke County. A building that exhibits many design elements present in Clarke County but nonetheless gives the overall appearance of caricature or exaggeration is also not acceptable.
- d. Form should reflect function. New commercial buildings should not be disguised as residential buildings. Traditional commercial design features should be employed to reflect the new building's function.

- e. The facades of large retail structures should be broken into smaller elements that are similar in scale to contributing commercial buildings.
3. Height
- Most contributing buildings in Clarke County have no more than two stories with a few structures in Berryville with three stories. New construction should be consistent with this pattern and not exceed three stories.
4. Roofs
- a. Contributing commercial buildings in Clarke County have roofs with the following characteristics: flat or shed pitches with front and side parapets or steep pitches (slopes between 8/12 and 12/12) with front or side gables. Roof material is primarily standing seam metal. Roofs are one color, usually dark green or black with dark red and silver also found to a lesser extent.
 - b. Existing commercial buildings should retain their roof configuration and elements. New commercial construction should use the most common characteristics of contributing commercial buildings: flat or shed roofs with parapets or steeply pitched front or side gable roofs, clad in standing seam metal of one dark color. Parapets should shield, on all sides, any roof-mounted mechanical equipment.
 - c. Gambrel roofs, true mansard roofs (which conceal an additional story) or other double-pitched roofs should not be used. These roof types are not common in Clarke County. They exist on a few agricultural buildings in the case of gambrel, on a few urban buildings in terms of true mansard, or are a late-20th century phenomenon in the case of other types of double pitched roofs. Fake roof fronts should not be used.
2. Exterior walls
- a. Exterior walls of contributing commercial buildings in Clarke County are most commonly clad in horizontal wood siding or stucco. To a lesser extent, red clay brick (painted or unpainted), native limestone, and cinder blocks were used. The same cladding material was typically applied to all sides and all stories of a building. Exposed foundations were usually of native limestone or formed concrete.
 - b. Existing commercial structures should retain their architectural character by maintaining their exterior wall and foundation materials. For cladding, new construction should use painted horizontal wood siding, stucco, red clay brick (painted or unpainted: solid red, not variegated), or limestone. Although use of authentic materials is encouraged, some modern alternative materials like hardi-plank for siding, split-face block for stone, or synthetic stucco for true stucco, can be used. Lesser quality materials like vinyl or aluminum siding should not be used.
 - c. No more than two cladding materials should be used on any building. No more than one cladding material should be used on any story of a building. Cladding materials should be uniform on all sides of a building. Stone should be natural local limestone.
 - d. Aside from buildings of unpainted red clay brick or native limestone, exterior wall colors of contributing buildings are characteristically painted white or off-white, and occasionally light gray or light yellow. Exterior wall color is different from and contrasts with roof color. Trim is usually painted white or matches the accompanying dark roof color. Typically, only two or three colors, including roof color, are used on a building. In new construction, such colors and patterns should be used. Naturally stained wood siding should not be used.

- e. All building elevations should include the principal design features and materials used on the front of the building, so not to look like the rear of the building.
3. Windows and Doors
- a. Windows and doors of contributing buildings in Clarke County are most commonly arranged in symmetrical and orderly relationships. Windows and doors at entrance levels of such buildings are square or rectangular.
 - b. The pattern and character of windows and doors on existing commercial buildings should be retained. Windows on new commercial buildings should include storefronts with large expanses of glass, and raised panels below the display windows. Windows with small panes are found primarily in residential buildings, not in commercial buildings, and should not be used. A structure's primary entrance should be off the front sidewalk, with additional entrances from parking lots to the side and rear of the structure as needed.
4. Structural Details
- Building elements of contributing commercial buildings in Clarke County were generally functional. Structural details should be retained on existing buildings. Building elements in new construction should also be functional. Porches or awnings were typically added to many contributing commercial buildings and are encouraged. Shutters were not used for commercial storefront display windows and should not be used. Lighting was typically installed to serve the function of illuminating building entrances, walkways, driveways and/or parking. Light fixtures should be placed for a functional purpose and not installed for decorative reasons, such as above or within awnings. When used, brackets should support roof elements, porches and awnings should shelter doors and windows, etc. When used on more than one side, building details should not vary and should be applied consistently.

3-E-5 Stream Protection Overlay District (SP)

(12/21/99) Intent: The Stream Protection Overlay District (SP) is designed to apply special regulations to the riparian buffer area no less than one hundred feet wide on each side of perennial streams and wetlands adjacent to those streams. The purpose of the buffer is to retard runoff, prevent erosion, filter nonpoint source pollution from runoff, moderate stream temperature, and provides for the ecological integrity of stream corridors and networks.

3-E-5-a Vegetated Stream Buffer

(6/18/02) Except for those land uses listed as exempt, land containing perennial streams, and/or nontidal wetlands adjacent to these streams shall provide for vegetated stream buffers of either 35 or 100 feet, as described below. The minimum stream buffer width shall be measured horizontally from the top edge of the stream bank or nontidal wetlands. The top edge of the stream bank, also known as bank-full width, is the width of the stream at normal high water events. This is determined by considering differences in vegetation (aquatic vs. typical terrestrial) and physical characteristics of the stream bank. The width of buffers for sloped stream banks shall be increased. For slopes between 15% and 25%, 35-foot buffers shall be increased to 45 feet. For slopes over 25%, 35-foot buffers shall be increased to 55 feet. For slopes between 15% and 25%, 100 foot buffers shall be increased to 125 feet. For slopes over 25%, 100-foot buffers shall be increased to 150 feet.

1. All parcels shall retain a vegetated buffer a minimum of one hundred feet of each side of the stream or wetland.
2. Parcels created or site plans approved before 1 January 2000 or parcels that were created after 1 January 2000 that qualify for Land Preservation Special Assessment (land use taxation) should establish a vegetated buffer within the buffer area, if one does not exist as described in Section 3-E-5-b.
3. Parcels that do not have sufficient acreage to qualify for the Land Preservation Special Assessment (land use taxation), that are shown on subdivision plat recorded or a site plan approved after 1 January 2000. Shall establish a vegetated buffer a minimum of thirty-five feet of each side of the stream or wetland (see section 3-E-5-b).

3-E-5-b Vegetated stream buffer criteria

(3/19/02) In order to maintain the runoff, erosion, non-point source pollution control, stream temperature, and ecological values of the stream buffer, indigenous vegetation shall be preserved to the maximum extent possible. The target vegetative cover in the stream buffer shall be an indigenous riparian forest with ground cover, shrub, and tree canopy layers. Removal or preservation of vegetation in the stream buffer shall be allowed as provided in paragraphs (1) and (2) however; in no case shall vegetation be removed so as to disturb the soil.

1. Within a minimum of thirty-five feet of the top of the stream bank and on land classified as nontidal wetland:
 - a. Existing trees, with the following characteristics, shall be preserved:
 - (1) Have a diameter of 6 inches or greater (measured 4.5 feet above the ground) if large or medium canopy trees (see section 3-E-5-c);
 - (2) Have a diameter of four inches or greater (measured 4.5 feet above the ground) if small canopy trees (see section 3-E-5-c);
 - b. Invasive non-native species, such as Ailanthus, may be removed regardless of size;
 - c. Dead, diseased, and dying trees may be removed;
 - d. Fallen trees that are blocking stream channels, or trees with undermined root systems

- in imminent danger of falling, may be removed where stream bank erosion is a current or potential problem that outweighs any positive effects the fallen tree or trees may have on the stream ecosystem;
- e. Pesticides shall not be applied, except by licensed applicators following pesticide label requirements.
2. Between a minimum of thirty-five feet and a minimum of one hundred feet from the top of the stream bank and outside of nontidal wetlands:
 - a. Dead, diseased, and dying trees may be removed;
 - b. Invasive non-native species, such as Ailanthus (Tree of Heaven), Malcura (Osage Orange), and Rosa Multiflora, may be removed regardless of size;
 - c. Trees six inches in diameter or greater at breast height shall be preserved, unless removed as part of a silvicultural thinning operation based upon the best available technical advice of a professional forester;
 3. For the purpose of establishing vegetation, the stream buffers shall consist of a mix of Large, Medium, and Small Canopy trees, shrubs, and warm season grasses, with the following specifications:
 - a. Large Canopy Trees shall:
 - (1) have a mature height over forty-five feet;
 - (2) be native riparian species;
 - (3) be typical of, but not limited to American Basswood, Green Ash, Sycamore, Tulip Poplar, or Red Oak;
 - b. Medium Canopy Trees shall:
 - (1) have a mature height between thirty and forty-five feet;
 - (2) be native riparian species;
 - (3) be typical of, but not limited to Black gum, Red Maple, River Birch, or Persimmon;
 - c. Small Canopy Trees shall:
 - (1) have a mature height up to thirty feet;
 - (2) be native riparian species;
 - (3) be typical of, but not limited to Spicebush, Redbud, or Flowering Dogwood;
 - d. Evergreen Trees shall:
 - (1) have a mature height of at least ten feet;
 - (2) be native riparian species.
 - e. Shrubs shall:
 - (1) have a mature height of at least three feet;
 - (2) be native riparian species;
 - (3) be typical of, but not limited to Inkberry, Witch Hazel, Alder, or Hornbeam.
 - f. Ground cover shall consist of grasses and forbes.
 4. Plant material required per square foot of buffer-area:

Tree and shrub species must be at a minimum, one to two year old bare root seedlings, ground cover must be ordered as Pure Live Seed (PLS).

Large Canopy Tree	1/750 square feet or
Medium Canopy Tree	1/750 square feet or
Small Canopy Tree	1/750 square feet and
Evergreen Tree	1/750 square feet and
Shrub	1/50 square feet and
Ground cover	7 lbs. of seed per acre
 5. The property owner or their agent shall maintain any plant material required by this Ordinance, and any plant material that dies must be replaced in kind or with a suitable substitute as granted by the Clarke County Natural Resource Planner.

- 3-E-5-c The following types of development shall not be required to retain or establish a stream buffer, provided that the requirements of this section are satisfied:
1. The construction, installation, operation and maintenance of electric, gas and telephone transmission lines, railroads, and activities of the Virginia Department of Transportation, and their appurtenant structures, which are accomplished in compliance with the Erosion and Sediment Control Law (Virginia Code §§ 10.1-560 et seq.) or an erosion and sediment control plan approved by the Virginia Soil and Water Conservation Board.
 2. The construction, installation, and maintenance by public agencies of water and sewer lines, including water and sewer lines constructed by private interests for dedication to public agencies, provided that:
 - a. To the extent practical, the location of such water or sewer lines shall be outside of all stream buffer areas;
 - b. No more land shall be disturbed than is necessary to construct, install and maintain the water or sewer lines; and
 - c. All such construction, installation, and maintenance of such water or sewer lines shall comply with all applicable federal, state and local requirements and permits and be conducted in a manner that protects water quality.
 3. Silvicultural activities, provided that such activities are conducted in compliance with the water quality protection procedures established by the Virginia Department of Forestry in its "Best Management Practices Handbook for Forestry Operations," and are conducted on parcels that qualify for Land Preservation Special Assessment (land use taxation).
- 3-E-5-d The following types of development shall be allowed in a stream buffer if allowed by the Zoning Ordinance and provided that the requirements of this section are satisfied:
1. A building or structure that existed as of 1 January 2000 may continue at such location.
 2. However, any expansion or enlargement of such structure may not encroach upon the stream buffer more than the encroachment of the existing structure.
 3. On-site or regional stormwater management facilities and temporary erosion and sediment control measures, provided that:
 - a. To the extent practical, as determined by the Natural Resource Planner, the location of such facilities shall be outside of the stream buffer;
 - b. No more land shall be disturbed than is necessary to provide for construction and maintenance of the facility, as determined by the Natural Resource Planner;
 - c. The facilities are designed and constructed so as to minimize impacts to the functional value of the stream buffer and to protect water quality; and
 4. Water-dependent facilities; water wells; passive recreation access, such as pedestrian trails and bicycle paths; historic preservation; archeological activities; provided that all applicable federal, state and local permits are obtained.
- 3-E-5-e Types of development in a stream buffer that may be authorized by the Natural Resource Planner in the circumstances described below, provided that a mitigation plan is submitted and approved pursuant to section 3-E-5-f:
1. a lake, pond, or ecological/wetland restoration project;
 2. construction and maintenance of a driveway or roadway, if the Natural Resource Planner determines that the stream buffer would prohibit reasonable access to a portion of the lot which is necessary in order for the owner to have a reasonable use of the lot;
 3. construction, installation and maintenance of water and sewer facilities or sewage disposal systems, on parcels recorded before 1 January 2000 if the Natural Resource

Planner determines that the stream buffer would prohibit the practical development of such facilities or systems.

4. construction of a structure, on parcels recorded before 1 January 2000, if the Natural Resource Planner determines that the stream buffer would result in the loss of a building site, and there are no other available building sites outside the stream buffer on the parcel.

3-E-5-f

An owner who seeks to develop in a stream buffer pursuant to section 3-E-5-e shall submit to the Natural Resource Planner for review and approval a mitigation plan as provided herein:

1. The owner shall submit a mitigation plan that satisfies the applicable requirements of this section, a processing fee of \$100 and a certification stating that all requirements of the approved plan will be complied with.
2. The mitigation plan shall be reviewed by the Natural Resource Planner to determine whether it complies with the requirements of this section and all other requirements of this article. The Natural Resource Planner shall approve or disapprove a mitigation plan within thirty days that a complete plan was accepted for review. The decision shall be in writing and shall be communicated to the owner. If the plan is disapproved, the reasons for such disapproval shall be stated in the decision.
3. Each mitigation plan shall:
 - a. identify the impacts of proposed development on water quality and lands within the stream buffer;
 - b. ensure that, where development does take place within a stream buffer, it will be located on those portions of a site and in a manner that will be least disruptive to the natural functions of the stream buffer;
 - c. demonstrate and assure that development will be conducted using best management practices;
 - d. specify mitigation that will address water quality and stream buffer impacts; and;
 - e. contain all other information requested by the Natural Resource Planner.
4. Each mitigation plan shall be evaluated by the Natural Resource Planner based on the following criteria:
 - a. whether all reasonable alternatives to development in the stream buffer have been explored and exhausted;
 - b. whether the development in the stream buffer is the minimum necessary and is conducted in a manner that will be least disruptive to the natural functions of the stream buffer; and
 - c. whether best management practices will effectively mitigate adverse impacts from the encroachment on the stream buffer and its natural functions.

3-E-5-g

(3/12/07)

Revegetation/tree replacement, in consultation with a Forestry Consultant or Certified Arborist and within the guidelines described below, shall be required for all areas where any clearing occurs in excess of the standards for maximum cleared area or in required vegetative buffer.

1. Replacement criteria.

Trees that are removed shall be replaced so that there is, at a minimum, no loss of tree canopy coverage upon maturity of the replacement trees. All trees to be used as replacement trees shall be:

- a. a Virginia native tree species as identified in the Virginia Department of Forestry's Tree Seedling Brochure described by the Virginia Native Plant Society (<http://www.dcr.virginia.gov/dnh/native.htm>);
- b. be of minimum quality as identified in the American Standard for Nursery Stock

(ANSI Z60.1-2004) (as amended);

- c. planted as described in the American Standard for Nursery Stock ANSI Z60.1-2004 (as amended); by a qualified landscape contractor to insure survival; and a minimum of 4 feet in height with caliper dependent on species.

3-E-5-h

Inspections

The Natural Resource Planner shall inspect any land subject to establishing a vegetated stream buffer to insure that the buffers are installed as per the criteria outlined in this Ordinance.